PARL. PAPERS
FOR REFERENCE ONLY.

BILLS:

1854–5.

SIX VOLUMES:—CONTENTS OF THE

THIRD VOLUME.

N. B.—*THE* Figures *at the* beginning of the line, *correspond with the* N° *at the foot of each* Bill; *and the* Figures *at the* end of the line, *refer to the* MS. Paging *of the Volumes arranged for The House of Commons.*

Gold Finger Rings:

✓ 158. Bill for excepting Gold Finger Rings from the Operation of the Act of the last Session relating to the Standard of Gold and Silver Wares - - - p. 1

Gold Wedding Rings:

✓ 216. Bill for excepting Gold Wedding Rings from the Operation of the Act of the last Session relating to the Standard of Gold and Silver Wares, and from the Exemptions contained in other Acts relating to Gold Wares - - - 5

Grand Juries:

✓ 137. Bill to facilitate the Despatch of Business before Grand Juries in *England* and *Wales* - - - - - - - - - - - - - - 9

Grand Juries (Ireland):

✓ 221. Bill to relieve Grand Juries from fiscal Duties, and to place the Administration of local Affairs in *Ireland* in elected Councils - - - - - - - 13

Grand Juries (Ireland) (No. 2):

✓ 240. Bill to amend an Act for enabling Grand Juries in *Ireland* to borrow Money from private Sources on the Security of Presentments, and for transferring to Counties certain Works constructed wholly or in part with Public Money 97

Grand Jury Assessments (Ireland):

✓ 133. Bill to facilitate the Applotment of Grand Jury and other County Assessments according to the General Valuation of rateable Property in *Ireland* - 101

Grants of Land:

✓ 96. Bill to facilitate Grants of Land and Tenements for the Purpose of Religious Worship and other Purposes connected therewith - - - - - - 107

Haileybury College:

✓ 187. Bill to relieve the *East India* Company from the Obligation to maintain the College at *Haileybury* - - - - - - - - - - - 115

Hardware, &c. Manufactures:

✓ 126. Bill the better to secure the Property of Manufacturers of Iron, Steel, Cutlery, Edge Tools, Hardware, Gold, Silver, and Silver-plated Britannia Metal, German Silver, Copper, and Brass Articles and other Metals, Mother-of-pearl Shell, Tortoise Shell, Bone, Horn, Ivory, Leather, and Wood, and also for securing the Wages of the Workmen engaged in such Manufactures, by extending the Provisions of the Act of the Sixth and Seventh Years of Her present Majesty, Chapter Forty, commonly called the "Woollen, &c. Manufactures Act," to the said Hardware and other Manufactures - - - 119

Huddersfield Burial Ground Act Amendment:

184. Bill to amend the Provisions of the *Huddersfield* Burial Ground Act 1852, p. 123

Income Tax:

86. Bill for granting to Her Majesty an increased Rate of Duty on Profits arising from Property, Professions, Trades, and Offices - - - - - - 129

Income Tax Elective Franchise:

230. Bill for conferring the Elective Franchise upon Persons (not being Aliens) who are assessed to the Income Tax, but are not upon a Register of Electors for any part of *Great Britain* and *Ireland* - - - - - - - - 133

Incumbered Estates (Ireland) Acts Continuance:

254. Bill, intituled, An Act to extend the Period for applying for a Sale under the Acts for facilitating the Sale and Transfer of Incumbered Estates in *Ireland*, 141

Indemnity:

191. Bill to indemnify such Persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and to extend the Time limited for those Purposes respectively - - - - - - - - - - - 145

Infants' Marriages:

104. Bill to enable Infants, with the Approbation of the Court of Chancery, to make binding Settlements of their Real and Personal Estate on Marriage - 151

197. Same [as amended by the Lords] - - - - - - - - - 155

Inland Fisheries (Ireland):

29. Bill to assimilate the Law as to the Inland Fisheries in *Ireland* to that of *England*, 159

Insolvency and Bankruptcy (Scotland):

120. Bill to consolidate and amend the Laws of *Scotland* regarding Insolvency and Bankruptcy - - - - - - - - - - - - - 173

267. Same [as amended in Committee] - - - - - - - - - 241

Insurance on Lives Abatement of Income Tax Continuance:

156. Bill to continue the Act for extending for a limited Time the Provision for Abatement of Income Tax in respect of Insurance on Lives - - - - - 311

Intestacy (Scotland):

38. Bill to alter in certain respects the Law of Intestate Moveable Succession in *Scotland* - - - - - - - - - - - - - - 315

83. Same [as amended by the Committee] - - - - - - - - 319

108. Same [as amended by the Committee, and on Consideration of Bill as amended] - - - - - - - - - - - - - - - 323

Intramural Burials (Ireland):

23. Bill to amend the Laws concerning the Burial of the Dead in *Ireland* within the Limits of the Police District of *Dublin* Metropolis and other Corporate Cities and Towns in *Ireland* - - - - - - - - - - - - 327

Inverness Bridge:

238. Bill to extend the Provisions of an Act of the Fourteenth and Fifteenth Years of Her present Majesty, for rebuilding the Bridge over the River *Ness* at *Inverness* - - - - - - - - - - - - - - 331

Island of Tobago Loan:

266. Bill to authorize the Commissioners of the Treasury to make Arrangements concerning a certain Loan advanced by way of Relief to the Island of *Tobago*, 335

Joint Stock Banks (Scotland):

265. Bill to extend the Period for which Her Majesty may grant Letters Patent of Incorporation to Joint Stock Banks in *Scotland* existing before the Act of One thousand eight hundred and Forty-six - - - - - - p. 339

Judgments Execution, &c.:

3. Bill to enforce in any Part of the United Kingdom, Decrees and Orders of the High Court of Chancery in *England* and *Ireland*, and of the Commissioners for Sale of Encumbered Estates in *Ireland*, and to allow Execution to issue in any Part of the United Kingdom under Judgments or Decrees obtained in certain Courts of Record in *England*, *Scotland* and *Ireland* - - - - - 343

Judicial Procedure and Securities for Debts (Scotland):

289. Bill to amend and re-enact certain Provisions of an Act of the Fifty-fourth Year of King *George* the Third, relating to Judicial Procedure and Securities for Debts in *Scotland* - - - - - - - - - - - 355

Jurisdiction of the Stannary Court Amendment:

113. Bill, intituled, An Act to amend and extend the Jurisdiction of the Stannary Court - - - - - - - - - - - - - 361

154. Same [as amended in Committee] - - - - - - - - 381

Jurors and Juries (Ireland):

2. Bill to consolidate and simplify the Laws relating to Jurors and Juries in *Ireland* - - - - - - - - - - - - - 407

Jurors and Juries (Ireland) (No. 2):

6. Bill to amend the Laws relating to Jurors and Juries in *Ireland* - - - 435

Justices of the Peace Qualification:

125. Bill to amend the Laws relating to the Qualification of Justices of the Peace, 467

180. Same [as amended in Committee] - - - - - - - - 477

Land and Assessed Taxes Divisions:

80. Bill to facilitate the Formation of Divisions for which Meetings of Commissioners of Land or Assessed Taxes may be held in *Great Britain* - - - 487

Leases and Sales of Settled Estates:

194. Bill, intituled, An Act to facilitate Leases and Sales of Settled Estates - 493

290. Same [as amended by the Select Committee] - - - - - - - 507

Ledbury Prebend:

261. Bill, intituled, An Act for appropriating the Corps of the Prebend or Portion of *Netherhall Ledbury* in the Diocese and County of *Hereford*, and for constituting the Living of *Ledbury* a Rectory with Cure of Souls, and for augmenting the Endowments thereof - - - - - - - - - - - 521

Limited Liability:

150. Bill for limiting the Liability of Members of certain Joint Stock Companies, 529

213. Same [as amended in Committee] - - - - - - - - 537

279. Same [as amended in Committee, and on Re-commitment] - - - 545

Loan:

84. Bill for raising a Sum of Money by way of Annuities - - - - 553

Lunacy Regulation Act, 1853, Amendment:

51. Bill, intituled, An Act to explain and amend the Lunacy Regulation Act, 1853, 567

Lunatic Asylums and Regulations Acts Amendment:

207. Bill to amend the Lunatic Asylums Act, 1853, and the Acts passed in the Ninth and Seventeenth Years of Her Majesty, for the Regulation of the Care and Treatment of Lunatics - - - - - - - - - p. 571

244. Same [as amended in Committee] - - - - - - - - - 579

294. Same [as amended by the Lords) - - - - - - - - - 587

Lunatic Asylums (Ireland):

226. Bill to continue an Act of the Fifth and Sixth Years of Her present Majesty for amending the Law relative to Private Lunatic Asylums in *Ireland* - - 597

Lunatic Asylums (Ireland) (Advances):

44. Bill to make further Provisions for the Repayment of Advances out of the Consolidated Fund for the Erection and Enlargement of Asylums for the Lunatic Poor in *Ireland*, and to amend the Laws with reference to the Repayments in case of Change of Districts, and the Appointment of Commissioners of General Control and Correspondence - - - - - - - - - 601

114. Same [as amended by the Select Committee] - - - - - - - 607

249. Same [as amended by the Select Committee, and on Re-commitment] - 611

6 *June* 1855. 18 Vict.

A

B I L L

FOR

Excepting Gold Finger Rings from the Operation of the Act of the last Session relating to the Standard of Gold and Silver Wares.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS an Act was passed in the Eighteenth Year of the Reign of Her Majesty the now Queen, intituled "An "Act for allowing Gold Wares to be manufactured at a "lower Standard than that now allowed by Law, and to amend the "Law relating to the assaying of Gold and Silver Wares:" And whereas it is expedient that Gold Finger Rings should be excepted from the Operation of the said Act: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble. 17 & 18 Vict. c. 96.

Gold Finger Rings excepted from the Operation of 17 & 18 Vict. c. 96.

I. From and after the *passing of this Act*, nothing in the said recited Act contained shall be deemed to apply to Gold Finger Rings.

The Companies of Goldsmiths indemnified.

II. And whereas since the coming into operation of the said recited Act certain of the Companies and Corporations authorized to assay and

and mark Gold Wares have assayed and marked divers Gold Finger Rings of the Standards required by Law before the passing of the said recited Act, and have upon such assaying and marking by their Officers and Servants demanded and received for the Use of Her Majesty the same Duty as was payable to Her Majesty in respect of the like Gold Finger Rings when assayed and marked before the passing of the said recited Act: And whereas Doubts have been entertained whether such Demands and Receipts of such Duty were lawful: Be it enacted, That all such Demands and Receipts of such Duty shall be deemed and taken to have been lawful, notwithstanding the said recited Act, and that none of the said Companies or Corporations, or of their Officers or Servants, shall be liable to any Action, Suit, or other Proceeding by reason or on account of any such Demand or Receipt as aforesaid.

Gold Finger Rings.

A

BILL

For excepting Gold Finger Rings from the Operation of the Act of the last Session relating to the Standard of Gold and Silver Wares.

(Prepared and brought in by Mr. Wilson and The Chancellor of the Exchequer).

Ordered, by The House of Commons, *to be Printed,* 6 *June* 1855.

[Bill 158.]

Under 1 *oz.*

3 *July* 1855. 18 & 19 Vict.

A

B I L L

FOR

Excepting Gold Wedding Rings from the Operation of the Act of the last Session relating to the Standard of Gold and Silver Wares, and from the Exemptions contained in other Acts relating to Gold Wares.

WHEREAS an Act was passed in the Eighteenth Year of the Reign of Her Majesty the now Queen, intituled "An Act for allowing Gold Wares to be manufactured at a lower Standard than that now allowed by Law, and to amend the Law relating to the assaying of Gold and Silver Wares," whereby it is, amongst other things enacted, that if any of the Gold Wares which by any Statute now in force are not liable to be assayed and marked shall nevertheless be assayed and marked as of One of the Standards authorized by Law, such Wares shall not by reason thereof be chargeable with the Duty now levied on Gold Plate: And whereas by certain Statutes now in force no Gold Rings, except Mourning Rings, are liable to be assayed and marked, but Gold Wedding Rings have nevertheless been assayed and marked: And whereas it is expedient that Gold Wedding Rings should be made liable to the Provisions of the Statutes now in force relating to the assaying and marking

Preamble.

17 & 18 Vict. c. 96.

marking of Gold Plate: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Gold Wedding Rings to be assayed and marked.

I. From and after *the passing of this Act*, Gold Wedding Rings shall be assayed and marked in like Manner as Gold Plate not exempted is required by the Statutes now in force to be assayed and marked, and all the Provisions of the Statutes relating to the Manufacture or Sale of Gold Plate shall apply to Gold Wedding Rings, anything therein contained to the contrary notwithstanding.

Sect. 3. of 17 & 18 Vict. c. 96. repealed.

II. The Third Section of the Act passed in the Eighteenth Year of the Reign of Her present Majesty, herein recited, is hereby repealed so far as the same might affect Gold Wedding Rings.

Certain Companies, &c. authorized to assay and mark Gold Wares indemnified.

III. And whereas since the coming into operation of the said recited Act certain of the Companies and Corporations authorized to assay and mark Gold Wares have assayed and marked divers Gold Rings of the Standards required by Law before the passing of the said recited Act, and have upon such assaying and marking by their Officers and Servants demanded and received, for the Use of Her Majesty, the same Duty as was payable to Her Majesty in respect of the like Gold Rings when assayed and marked before the passing of the said recited Act: And whereas Doubts have been entertained whether such Demands and Receipts of such Duty were lawful: Be it enacted, That all such Demands and Receipts of such Duty shall be deemed and taken to have been lawful, notwithstanding the said recited Act, and that none of the said Companies or Corporations, or of their Officers or Servants, shall be liable to any Action, Suit, or other Proceeding by reason or on account of any such Demand or Receipt as aforesaid.

Gold Wedding Rings.

A

BILL

For excepting Gold Wedding Rings from the Operation of the Act of the last Session relating to the Standard of Gold and Silver Wares, and from the Exemptions contained in other Acts relating to Gold Wares.

(*Prepared and brought in by Mr. FitzRoy, the Chancellor of the Exchequer, and Mr. Wilson.*)

Ordered, by The House of Commons, *to be Printed,* 3 *July* 1855.

[Bill 216.]

Under 1 *oz.*

18 *May* 1855. 18 Vict.

A

B I L L

TO

Facilitate the Despatch of Business before Grand Juries in England and Wales.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS it would expedite and improve the Administration of Criminal Justice if Persons attending to give Evidence before Grand Juries were sworn in the Presence of the Jurors who are to act upon such Testimony: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. From and after the *passing of this Act* it shall be lawful for the Foreman of every Grand Jury empannelled in England and Wales, or any One of Her Majesty's Justices of the Peace serving on such Grand Jury, and he is hereby authorized and required, to administer an Oath to all Persons whatever who shall appear before such Grand Jury to give Evidence in Support of any Bill of Indictment, and all such Persons attending before any Grand Jury to give Evidence may be sworn and examined upon Oath by such Grand Jury touching the Matters in Question; and every Person taking any Oath or Affirmation in Support of any Bill of Indictment who shall wilfully swear or affirm falsely shall be deemed guilty of Perjury; and the Name and Witnesses examined before Grand Juries to be sworn in the Presence of the Jurors.

Place of Abode of every Witness intended to be so examined shall be endorsed on such Bill of Indictment; and the Foreman of such Grand Jury, or the Justice of the Peace administering the Oath to such Witness as aforesaid, shall write his Initials against the Name of each Witness so sworn and examined touching such Bill of Indictment.

Not necessary for Witnesses to be sworn in open Court.

II. From and after *the passing of this Act* it shall not be necessary for any Person to take an Oath in open Court in order to qualify such Person to give Evidence before any Grand Jury.

Interpretation.

III. The Word "Foreman" shall include any other Member of such Grand Jury who may for the Time being act on behalf of such Grand Jury in the Examination of Witnesses in Support of any Bill of Indictment; and the Word "Oath" shall include Affirmation, where by Law such Affirmation is required or allowed to be taken in lieu of an Oath.

Grand Juries.

A

BILL

To facilitate the Despatch of Business before Grand Juries in England and Wales.

(*Prepared and brought in by Mr. Bowyer and Mr. Montagu Chambers.*)

Ordered, by The House of Commons, *to be Printed,* 18 *May* 1855.

[Bill 137.]

Under 1 *oz.*

Grand Juries (Ireland) Bill.

SUMMARY OF THE BILL.

The Numbers refer to the Clauses of the Bill.

The Preamble recites, that it is expedient to make Provision for the Administration of local Affairs in Ireland by Councils, elected by the Magistracy and the Ratepayers, and to give Facilities for the Execution of Works of public Utility which now require the Consent of Parliament.

Clauses.

1 The Lord Lieutenant is authorized to divide Ireland into Districts for the Purposes of the Act, the Boundaries of which are to be identical with those of the present Poor Law Unions, whenever practicable.

6 The Fiscal Affairs of the Districts are to be managed by Councils.

7, 8 The Council of a District is to be composed of Wardens, elected by the Ratepayers of the several Electoral Divisions, and of the Magis-

15, 16 trates resident within it. The Council is to be elected for Four Years; but Half of the elected Wardens are to go out of Office at the

40 End of Two Years. There are to be Four General Meetings of the

31, and Council within the Year. The Council appoints an Executive Com-

96 to 112 mittee, having continuous Powers. The Members of the Executive Committee are to be paid their reasonable Expenses for Attendance.

30 The District Councils are to be Corporate Bodies.

The First Elections are to be made under the Superintendence of

21 to 25 the Poor Law Commissioners, and in the same Manner as Poor Law Guardians are elected.

The Duties which are imperative on the District Council are as follows:

1. The Maintenance of the main Lines of Communication within the District:

53 2. To make Provision, by the Levy of sufficient Rates, for all County or District Charges or Expenditure.

54 The discretionary Powers of the Council are of Three Classes:

A. Powers which the District Council can only exercise with the Concurrence of the County Council; viz.

55 1st. The Execution of Works, at the Charge of the District, which have not heretofore been presentable by Grand Juries:

Clauses.

56 2d. The Power of borrowing Money on the Security of the Rates:

57, 59 3d. The Sanction of Works of private Enterprise for public Use, and for the Use of which Tolls or Rates of Payment are intended to be charged:

58 4th. The Sanction of Works of private Enterprise which are not for public Use, but by which the Public Interests may be affected:

54 B. Powers which the District Council can exercise independently of the County Council (except on Appeal), but which require the Assent of Two consecutive Councils of the District; viz.

The Execution of Works heretofore presentable by Grand Juries which it is proposed to execute at the sole Charge of the District:

C. Powers which can be exercised by the District Council, and in respect of which a Second Consideration by the Council is not required; viz.

Repairs of Roads and public Works. Contracts for maintaining Roads in repair. The Payment of Salaries, fixed Charges, Compensations, &c. &c.

The Sanction of certain Works of private Enterprise which, though of public Utility, are not for public Use, and which do not involve any Charge on the District.

60 The Decisions of the District Council may be appealed against to the Council of the County:

One Fourth of the Council may appeal against the Decision of the Majority:

63 The Wardens of any Electoral Division may appeal, at the Risk of their Division:

61 Any Ratepayer may appeal at his own Risk, but must give Security for the Payment of Costs if he fails in establishing the Cause of Appeal.

68 to 76 The general Mode of proceeding in respect of Applications to the District Council (if of the Class B.) is as follows:—The Application must be lodged in the Council Office Thirty Days before the Day of Meeting of the Council, and the Engineer of the District must prepare himself, by local Examination or otherwise, to be able to advise the Council in respect of it. If the Application shall be "approved" of by the Council, it is referred to the Executive Committee. The Duty of the Executive Committee in respect of the Application is, to ascertain, through the Engineer of the District, the Correctness of all the Details of the Plan, and the Cost of executing it, by entering into a Provisional Contract for its Execution, and to report to the Council their Opinion on the Application. The Council,

at

Clauses.

at its subsequent Meeting, having before it the Report of the Committee, and a Contract for the Execution of the Work, may "grant" or "reject" the Application. If "granted," and not appealed against
77 to 88 within Seven Days, the Work is to be proceeded with. If the Application be of the Class C. the Council grants or rejects the Application without previous "Approval," or deputes the Power of granting it to the Executive Committee.

If the Application be for a Work which requires the Assent of the County Council (Class A.) and that the Cost of the Work is to be,
89, and charged on the District, the Executive Committee of the District
180 to 186 obtains the Provisional Contract for its Execution, and forwards the Application, with the Contract, and any Report they may think proper to make in respect of it, to the County Office. If the Application be "granted" by the Council of the County, the Execution of the Work
185 rests with the Executive Committee of District Council.

In respect of Works of private Enterprise, where an Application shall have received the Sanction of that Council which, under the Bill, has the Right (except on Appeal) of final Approval of the Work, it is the Duty of the President, with the Assistance of the
221 Assessor of the County, to superintend the Completion of the Security required by the Council for the due Execution of the Work, and for the Payment of all Costs, Compensations, or Damages attendant on it; to protect public as well as private Interests, by causing all the Requirements of the Act to be duly complied with by the Under-
224 taker; and to sanction the Application of the several Acts of 1845
173, 219 and 1847, referred in the Bill, or so much of these Acts as may be required, for the Execution of the Work; and also such Byelaws as may be required for the efficient Management of the Undertaking.

The Financial Affairs of the District are to be managed by the
91 Council. The Rates required are to be levied as Poor Rates are levied; and in the Case of Leases or Lettings made subsequent to the passing
90 of this Act, the Tenant may deduct from the Rent he pays the same Proportion of the Rate as under the Poor Law.

The Executive Committee of the District Council has Power to act in the Name and with the Authority of the Council, whenever
97 such Power in respect of any Application shall have been so deputed to it by the Council. It has Power of suspending Officers of the Dis-
103, 104 trict in Cases of Misconduct, and in Cases of Inability to discharge Duty it may appoint Officers provisionally. It prepares itself to advise the Council on all Questions which are to be brought before it, and superintends, with the Assistance of the Engineer of the
106 District, all Works in progress. It also superintends the Collection
105 of the Rates.

Committees

Committees of Management.

Clauses.

When the Ratepayers of any Electoral Division shall desire to manage their own Affairs, they have Power to elect a Committee of Management of the Division, which, so far as is consistent with the Interests of the District or with the public Interests, is to be inde-
113 to 149 pendent of the District Council, except on Appeal. The Committee
132 of Management has Power to require the District Council to contract with it for the Maintenance of the several Roads and Streets within the Electoral Division. It has Power to levy separate Rates, and to execute Works at the Charge of the Division, and to make Byelaws.

The Mode of Election of a Committee of Management, and its Powers and Mode of proceeding, are contained in the Clauses from No. 96. to No. 149.

Counties.

150 The Fiscal Affairs of Counties are to be managed by Councils, composed as follows:

Each District Council selects so many Deputies to the County Council as the Lord Lieutenant shall direct. The Magistrates of the
151 County select an equal Number of Persons, either of their own Body or otherwise, to represent them. The Persons so selected, together with the Lieutenant or Vice-Lieutenant of the County (if he be not also the President of the County) are to form the Council of the County.

150 The Council of the County is elected for Four Years. It is a
158 Corporate Body. It is to meet Four Times in the Year. It appoints
164 an Executive Committee, with Power to act in the Name and with
158 the Authority of the Council. The reasonable Expenses of the Executive Committee while in attendance, and also their travelling
158 Expenses, are to be paid by the County at large.

The imperative Duties of the Council of the County are:

163
1. To make Provision for and to maintain in a State of Efficiency all County Establishments and public Buildings connected with the Administration of Justice, the Public Health, and the Preservation of Law and Order within the County; and also to repair or rebuild, at the Charge of the County at large, all Bridges and Causeways the probable Expense of which shall exceed £200:
2. To make Provision for all fixed Charges to which the County is liable, and for Charges which any superior Authority has the Right to impose:
3. To appoint proper Persons to discharge the several Duties for which the Council is responsible, and to assign sufficient Salaries to each:

4. To

Clauses.

4. To decide Appeals against the Decisions of the District Council, and to hear and investigate Complaints which may be made against the Conduct of a District Council, when called on to do so by the President of the County.

166 to 170 The discretionary Powers of the Council of a County are, generally, to do all such Acts or execute such Works as Grand Juries had heretofore Power to do or execute, at the Charge of the County at large; and, with the Consent of a Majority of the District Councils within the County, to execute, at the Expense of the County at large, Works not heretofore presentable by Grand Juries, which the
174 Council shall consider requisite, either for the Convenience or Safety of the Public, the Promotion of Education or the Public Health, or for the Preservation of Law and Order within the County.

172 In respect of private Undertakings, where the Interests of Two or more Districts or of the County generally are affected, the Council of the County may sanction the Undertaking, without the previous Approval of the District Councils.

177 The Mode of proceeding in respect of Applications requiring the Assent of the County Council is, as nearly as the Case admits of, the same as that assigned for the Guidance of the District Council.

255 Appeals against the Decisions of the County Council are to be decided by the Administrative Council of the Lord Lieutenant.

187 The Financial Affairs of Counties are to be managed by their Councils; but Levies required for County Purposes are to be made through the District Councils.

Presidency of Counties.

199 The Duty of superintending the Operation of the Act within the County, and of carrying into effect the Decisions of the Council in
218 respect of Works not heretofore subject to the Cognizance of Grand Juries, is vested in the President of the County.

202, 203 The President is assisted by a Vice-President, and also by an Assessor, who is to act as the legal Adviser of the several Councils within the County.

200, 203 The President, Vice-President, and Assessor of the County are selected by the Lord Lieutenant from a List of Persons recommended
206 for each Office by the County Council. Each is paid a Salary proportioned to the Extent of his District. They hold Office during the Pleasure of the Lord Lieutenant.

The Salaries payable to these Officers are to be paid out of such
207 Funds as shall be supplied by Parliament for the Purpose, but One Half of the Amount so paid is to be made up by a Stamp Duty on all Applications laid before the Council.

205 The President appoints a Secretary, and also an Auditor of the Accounts of the several Councils.

Clauses.

The Administrative Council of the Lord Lieutenant.

There is to be an Administrative Council to the Lord Lieutenant.

251 The Administrative Council is to be composed of the Chief (or Under) Secretary of Ireland, the Lord Chancellor, Two Judges, the Chairman of the Board of Works, the Chairman of the Poor Law Commission, the several Presidents of the Counties, and Ten such other Persons as shall be selected by the Lord Lieutenant.

262 The Duties and Powers of the Administrative Council are to be in respect of the several Counties of Ireland the same as the Duties and Powers of the Councils of Counties are in respect of the several Districts within them.

255 It is a Court of Appeal from the Decisions of Councils of Counties, and can decide between Counties where their Councils disagree, and
268 also between rival or competing Works.

262 Where any Undertaking by a Company or otherwise shall affect Two or more Counties, the Application is made in the first instance to the Administrative Council. The Mode of proceeding in respect thereof is contained in the Clauses from 162 to 173.

258 The Lord Lieutenant, as the Representative of Imperial Interests, may dissent from the Decision of the Administrative Council, but must assign Motives for his Dissent.

274 The Lord Lieutenant may require the Presidents of Counties to report yearly on the State of their Counties, in such Form and on such Subjects as he shall direct; their Reports, with his own Observations thereon, are to be laid before Parliament.

276 The Administrative Council has Power to make Regulations for the Management of Lunatic Asylums and other public Establishments which are paid for by Rates levied within the several Counties. It has Power also to organize a System for obtaining Agricultural and
277 other Statistics, and to hear and examine Complaints made against the Conduct of any Commissioners appointed by the Government, under any Act of Parliament, in respect of Drainages, Navigations, or other Works the Cost of which is to be repaid by local or general Levies of Rates.

Note.—Several of the Clauses contained in the Bill under the Heading of "General Provisions" are to be transposed to other Parts of the Bill, in Committee.

The repealing Clause, the Interpretation Clause, and the Schedules are also to be added in Committee.

(Ireland.)

A

B I L L

TO

Relieve Grand Juries from fiscal Duties, and to place the Administration of local Affairs in Ireland in elected Councils.

Preamble.

WHEREAS it is expedient to make Provision for the Administration of the local Affairs of Counties and Counties of Cities and Towns in Ireland by Councils elected by the Magistracy and the Ratepayers, and to give Facilities for the Execution of Works of public Utility which now require the Consent of Parliament: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Lord Lieutenant to divide Ireland into Districts.

I. The Lord Lieutenant of Ireland shall within *Twelve* Months after the passing of this Act divide the several Counties of Ireland into Districts composed of Electoral Divisions as herein-after provided, and shall publish in the Dublin Gazette the Names which he shall assign to each District, and the Names of the Electoral Divisions of which it shall be formed; and if at any future Time he shall think fit to make any Alteration in such Districts or Electoral Divisions, he shall be at liberty to do so by similar Publication in the Gazette.

Fiscal Duties of Grand Juries when to cease.

II. Within *Twelve* Months after such First Publication, the Lord Lieutenant shall declare by a like Publication in the Dublin Gazette this Act to be in operation in Ireland, and so soon as County Councils shall have been elected under the Provisions of this Act, the fiscal Duties of Grand Juries within the Counties for which such Election shall have taken place shall cease, and all the Rights, Duties, Powers, and Privileges of Grand Juries in respect of fiscal Affairs shall devolve upon such Councils, and from such Period it shall not be lawful for any Grand Jury of any such County, at any Assizes or Presenting Term, to make any Presentment for the Execution of any public Work or for raising or levying any Money, or to make any Presentment relating to any of the fiscal Concerns of such County.

Rights and Duties of Grand Juries to devolve on Councils.

III. All existing County Officers shall continue in the Discharge of their respective Duties, as well as in the Enjoyment of their present Salaries, until they shall have been relieved from such Duties by the County Council, and from such Period their said Salaries shall cease; and all Property, whether Real or Personal, belonging to any County, and all Property belonging to any Grand Jury of a County, or held by any Person or Persons in trust for such County or Grand Jury, and all Rights and Liabilities of such County or Grand Jury, or of any One on its or their Behalf, in respect of any Contract or other Matter, shall, on the coming into operation of this Act in such County, be vested in the Council of such County; and all Actions, Suits, Indictments, or Informations which but for the passing of this Act would have been conducted in the Name of the existing County Officers or of the Grand Jury of the County, or to which they would have been Parties on behalf of the County, shall be continued, and shall for the future be conducted in the Name of the County Council.

How Districts are to be formed.

IV. The Districts shall be as nearly as possible formed as follows; that is to say,

Every Poor Law Union the entire of which is in One and the same County shall be a District for the Purposes of this Act, unless it shall appear advisable to the Lord Lieutenant that any District should be otherwise formed; and in any Case where a Poor Law Union shall be composed of Portions of more than One County, the several Portions thereof which are in different Counties may (Reference being had to their Size, Population, and Value,) be either declared to be separate Districts or the Electoral Divisions thereof, or any of them may be added to the most convenient Districts of the County within which they are situated, and thenceforward for the all the Purposes of this Act they shall form Portions of such Districts respectively.

V. If

V. If in any City or Town within a District, any Local or Public Act for the Improvement of the City or Town be in operation, the Lord Lieutenant may exempt such City or Town from such of the Provisions of this Act as are provided for by such Local or Public Act, and thereafter, if it shall be so desired by the Council or Governing Body of such City or Town, or by a Majority of the Ratepayers thereof, he may withdraw such Exemption, and declare such City or Town to be in all respects subject to the Provisions of this Act, and in such Case the Operation of such Local or Public Act, except for the winding-up of outstanding Accounts, shall cease and determine. Exemption of certain Cities and Towns.

VI. The fiscal Affairs of the Districts so formed shall be managed by Councils constituted as follows. Fiscal Affairs of Districts.

VII. Every Electoral Division within a District shall elect so many Wardens from among the Persons rated for the Relief of the Poor within such Division as the Lord Lieutenant shall, Reference being had to its Size, Population, and Value, direct. Wardens to be elected.

VIII. The Wardens so elected shall, together with the Justices of the Peace resident within the District, form the Council of the District, so nevertheless that there shall not be at any Time a less Number of Justices in the Council than of elected Wardens. Justices to be appointed.

IX. If there shall not be Justices residing within the District equal in Number to the Wardens elected, the deficient Number shall be supplied as follows; that is to say, Number of Justices, how to be supplied.

First, by Justices directly liable to the Payment of Rates within the District, in priority according to the Value of the Property in respect of which they are liable to such Payment, such Value not being less than *One hundred Pounds* per Annum; and,

Secondly, if the Number of Justices be still deficient, then by the Addition of such Justices as shall appear by the Rate Books to be Owners of Land within the District, in Priority according to the Value of the Lands of which they appear to be Owners.

X. No Stipendiary Magistrate, unless he be rated in respect of Property other than his Residence or the Lands attached thereto, shall act as Member of any Council. No Stipendiary Magistrate to act.

XI. Every Male Person shall be eligible as a Warden who shall appear by the Rate Books to be an Occupier or Owner of Property within the District, provided he be over Twenty-one Years of Age, Qualification of Wardens.

be a Person of good Repute within his Division, and shall not within *Three* Years have been convicted of any Offence involving Fraud or Dishonesty, or been judicially declared a Bankrupt or an Insolvent: Provided always, that no Person shall be eligible as a Member of any Council at the same Time that he is Clerk, Engineer, Treasurer, and Officer of such Council, or of any Council within the same County, or of the County Council of such County.

Female Occupiers may depute Rights.

XII. Any Female Owner or Occupier of Property within a District may depute to any Male Relative residing with her or engaged in the Management of her Property all the Rights, whether of voting, or of Eligibility to Office, or otherwise, which attach to Ownership or Occupancy under this Act or under the Poor Law Acts, such Deputation to be made in Writing, and lodged with the Clerk of the District previous to the Election; and such Deputation shall be revocable at Pleasure, and may then be given in a similar Manner to any other Male Relative; but if any Person shall have been elected as a Warden in virtue of such Deputation, he shall not be disqualified from continuing as Warden for the Time for which he was elected by reason of such Deputation having been revoked.

Justices required to make Declaration.

XIII. In making up the Lists of Justices who may act upon the Council, no Justice shall be included who shall not have previously assented thereto by signing a Declaration to the Effect that he is willing to undertake the Duties of District Councillor, and that he will perform such Duties assiduously, and without Fear, Favour, or Affection.

Wardens also.

XIV. No Warden shall take Part in the Proceedings of the Council who shall not have made and signed a similar Declaration.

Members of Council elected for Four Years, One Half going out of Office every Two Years.

XV. The Members of the Council so appointed shall continue in Office for *Four* Years, excepting that so many of the elected Wardens as shall constitute One Half at least of the entire Number of elected Wardens, if such Number be even, or the larger Part of such entire Number if the Number be odd, shall go out of Office at the End of the Second Year after their Election.

Who are to go out of Office.

XVI. The Determination of such Wardens as shall go out of Office shall be by Ballot, and Notice shall be given to the Ratepayers of the Division whose Wardens or any of them are to retire from the Council, and a Day shall be appointed by the Chairman of the District for receiving new Nominations; but if on the Day so appointed no other Person shall have been duly nominated by at least

Ten

Ten Ratepayers of the Division to supply the Place of the outgoing Warden, he shall continue to act for the entire Period for which he was elected.

How Wardens are to be replaced.

XVII. In case of the Death or Resignation of any Warden, or in case that the Majority of the Ratepayers of any Electoral Division shall be dissatisfied with the Conduct of their Warden or Wardens, and shall sign a Requisition to the Council requiring that a new Election shall be held, the Council shall direct that the said Warden shall be discharged from his Office, and that a new Election be held for a Warden in his Room; and the Person so elected shall, subject to the Ballot, as herein-before provided, hold Office during such Time as the discharged Warden would have done, had he not been so discharged.

Chairman and Deputy Chairman to remain in Office.

XVIII. The Chairman and Deputy Chairman of the District, and also the Deputies to the County Council, as herein-after provided for, if they or either of them be elected Wardens, shall be exempt from the Liability to go out of Office at the End of the *Two* Years.

Justices and Wardens how disqualified.

XIX. If a Justice whose Right to act as a Councillor arises from Residence cease to reside within a District, or if any non-resident Magistrate lose the Qualification in respect of which he acts, he shall thereby cease to be a Councillor; and if any Warden cease to be an Owner or Occupier within the District, he shall thereby cease to be a Councillor, and the Omission of his Name from the Rate Books shall be Evidence of his not being an Owner or Occupier.

Bankrupts disqualified.

XX. If any Councillor be judicially declared a Bankrupt or Insolvent, or be convicted of any Offence involving Fraud or Dishonesty, he shall cease to be a Councillor.

First Election of Councillors under Direction of Poor Law Commissioners.

XXI. The First Election of every District Council shall be made under the Direction and Supervision of, and at such Time and Place as may be appointed by, the Poor Law Commissioners; and all Questions which shall arise during the Election or in respect of the Returns as well of Wardens as of Magistrates shall be decided finally by the said Commissioners, and they at such First Election shall issue Orders to the Clerk of the Union forming such District to receive Nominations, to cause Voting Papers to be distributed and collected, and to declare those Persons elected Wardens who shall have received the greatest Number of Votes, in the same Manner, as nearly as may be, as if the Election were for Guardians of the Union.

Qualification of Voters.

XXII. The Qualification of Voters for Wardens under this Act shall be the same as that of Voters for Poor Law Guardians under the Poor Law Acts; and there shall be under this Act the Right of voting by Proxy, and of a Plurality of Votes according to rating, to the same Extent and in the same Manner as under the Poor Law Acts.

How Justices to be supplied, if not resident.

XXIII. The Poor Law Commissioners shall at such First Election direct the Clerk of each Union to ascertain the Number of Justices resident within the District who may be willing to act as Members of the District Council; and if the Number of Magistrates resident within the District, and who shall assent to act, shall not equal the Number of elected Wardens, then the said Commissioners shall cause Notice thereof to be given to such other Magistrates as shall appear by the Rate Books to be rated or to be Owners of Land within the District, and shall inquire whether they be willing to act as Members of the Council, and of those who shall within the Time specified by the Commissioners have assented to act they shall direct the Clerk to select the Number required according to the Right of Priority herein-before set forth.

When District is composed of Portions of several Unions.

XXIV. Where any District shall consist of Electoral Divisions within different Unions, the Commissioners shall direct the Clerks of the different Unions to which such Electoral Divisions shall belong to furnish to the Returning Officer of the District a Copy of so much of the Rate Books of the Union as shall relate to the Electoral Division or Divisions within such Union, and belonging to the District, and a Statement of the Names and Residences of the Justices connected therewith, and of the Proxies in the Hands of such Clerks which would be available at the Time being for the Election of a Guardian of such Division; and the Poor Law Commissioners may appoint the Clerk of the Union which most nearly corresponds with such District to be at such First Election the Returning Officer for such District; and when a District shall be formed of a Portion of an Union the Commissioners may direct the Clerk of such Union to act as Returning Officer for the District, or to appoint a Deputy in his Place.

Complaints against Returns to be decided by Poor Law Commissioners at First Elections.

XXV. The Poor Law Commissioners on such First Election shall hear all Complaints against the Return either of Wardens or of Justices, and may order new Elections, or that the Names of other Magistrates shall be substituted for those selected by the Clerk, and so soon as *Three Fourths* at least of the Elective Members of any Council shall appear to them to have been duly elected, they may declare such Council to be formed, and

and competent to act, and may direct the Clerk to summon the Wardens so declared to be duly elected, and the Magistrates returned as Members of such Council, to meet for the Transaction of Business on a Day appointed, and the First Meeting shall be held in the Board Room of the Guardians of the Union, unless otherwise directed by the Commissioners, and the Clerk shall preside thereat until a Chairman for the Day shall have been elected, and subsequently shall act as Clerk of the Council until a Clerk of the District, as herein-after provided, shall have been elected.

At future Elections Clerk of the District to act as Returning Officer.

XXVI. At all subsequent Elections the Clerk of the District Council shall act as Returning Officer for the Election of Wardens and Selection of Justices, and shall proceed therein in all respects as nearly as possible as Clerks of Unions are directed to proceed in respect of the Election of Guardians: Provided always, that the Rate Books which shall determine all Rights of Voting, and the Selection of the Justices, shall be the Rate Books of the District, and not those of the Union.

Poor Law Commissioners to furnish Councils with Copies of their Rules.

XXVII. In order to ensure as nearly as may be an Uniformity of System in the Election of Wardens and of Guardians, the Poor Law Commissioners shall furnish to each District Council Copies of their existing Orders and Regulations in respect of Elections, and from Time to Time, if any new Orders or Regulations relating thereto shall be issued, shall also furnish Copies thereof to the Clerk of each District Council, for his Guidance in any subsequent Election.

After First Election Complaints to be decided by President of the County, or by the Assistant Barrister.

XXVIII. All Complaints against the Returns either of Wardens or of Justices shall, after the First Election, be made to the President of the County, to be appointed as herein-after provided, who may authorize the Council to correct any Errors which shall be patent on an Inspection of the Voting Papers or of the Rate Books, and to declare the Persons who ought to have been returned as Wardens or Justices; and in case it shall appear to him that the Returning Officer, or those employed under him, has or have been guilty of Fraud, Partiality, or wilful Misconduct, or of culpable Negligence, or that the Return was obtained through Violence or Intimidation, he may direct that the Complaint shall be investigated by the Assistant Barrister at any Sessions of the Peace for the District, and in such Case the Assistant Barrister shall have Power to declare the Election void, or to declare the Warden or Magistrate elected who shall appear to him to have had the Right to be declared duly elected; and in case it shall appear to the Assistant Barrister that any Person has been guilty of Fraud, Partiality, or of wilful Misconduct in respect to such Election or Return, or that any

Person has caused or taken Part in causing an undue Return, through Fraud, Violence, or Intimidation, it shall be lawful for the Assistant Barrister to impose a Fine not exceeding *Fifty Pounds* on such Party, or to order him to be imprisoned for any Term not exceeding *Three* Calendar Months.

How Complaints are to be brought before the Assistant Barrister.

XXIX. All Complaints so directed by the President of the County to be investigated shall be brought before the Assistant Barrister in the Form of an Information, in which the Facts relied on shall be verified on Oath before a Magistrate, who shall take the usual Course to compel the Appearance of all Parties charged with any of the Offences aforesaid before the Assistant Barrister at the next Session; and the Facts alleged in such Information shall be heard and determined on by the Assistant Barrister as any other Case of Criminal Proceeding, and he shall have Power to determine by whom the Costs of the Proceedings shall be paid.

The District Council.

District Council to be a Body Corporate.

XXX. The Council of every District shall be a Body Corporate under the Title of "The District Council," and shall have perpetual Succession and a Common Seal, and may sue and be sued and may acquire and hold Lands as a Corporation, and shall have and be subject to all other Rights, Privileges, and Liabilities belonging to a Body Corporate.

Chairman, Deputy Chairman, and Executive Committee to be appointed.

XXXI. The District Council so constituted shall, at its First Meeting or at some Adjournment thereof, elect a Chairman and a Deputy Chairman of the District, and shall also appoint an Executive Committee of the Council, consisting of not less than *Five* nor more than *Nine* Members, whose reasonable Expenses in respect of their Attendance on the Committee shall be paid out of the District Rates; and the Chairman and Deputy Chairman of the District shall be ex officio Members of the Committee, and the Clerk of the Council shall be the Clerk of the Executive Committee.

Chairman to have a Casting Vote.

XXXII. The Chairman, or in his Absence the Deputy Chairman, shall preside at all Meetings of the Council or of the Committee; but if neither be present, a Chairman for the Day shall be elected; and the Chairman at every Meeting shall have a Casting Vote when there shall be an Equality of Votes, in addition to his own Vote.

Declaration to be made by Councillors.

XXXIII. Every Member of the Council shall, before he shall act as such, take and subscribe the Declaration following:

'I A.B. do solemnly declare, That I will act as a Member of the 'District Council without Fear, Favour, or Affection, and that 'it

'it is my Intention, unless prevented by sufficient Cause, to attend the 'Meetings thereof punctually.'

Chairman or Deputy Chairman, how to be removed.

XXXIV. The Chairman and Deputy Chairman shall be elected for the *Four* Years for which the Members of the Council were originally elected, and shall continue in Office for such Period, unless he or they shall resign, or be disabled from Attendance by Illness or other Cause, or be removed from Office by the Decision of *Three Fourths* at least of a Council specially convened by the Clerk on the Requisition of Ten Members of the Council; and in such Case another Chairman or Deputy Chairman shall be elected, who shall continue in Office for the Remainder of such Time as the Chairman and Deputy Chairman so incapacitated or removed would, but for such Incapacity or Removal, have continued in Office.

Council to appoint Officers.

XXXV. The Council shall, as soon as may be, appoint a Clerk of the District, an Engineer or Surveyor of Works, and a Treasurer, and then, or subsequently, such other Officers or Servants as may appear to the Members of the Council requisite for the due Performance of their Duties, and the proper Management of the fiscal Affairs of the District, and shall also determine the Salaries which shall be paid to each: Provided always, that no Person shall be appointed by any Council as Engineer of a County, as herein-after provided, or of a District under this Act, unless he shall previously have been examined by a Board of Engineers, to be appointed for the Purpose by the Lord Lieutenant, and have received from them a Certificate of Competence to act as an Engineer; nor shall any Person so appointed be liable to be removed from his Office, except by the Decision of a Majority of *Three Fourths* of the entire Council, and that such Decision shall have been approved of by the Lord Lieutenant.

Officers to give Security.

XXXVI. The Clerk of the District, the Engineer or Surveyor of Works, and the Collectors of Rates shall each give such Security for the due Performance of their respective Duties as may be approved of by the Council in General Meeting assembled.

Chairman responsible for Securities.

XXXVII. The Chairman of the District shall be responsible for the due Completion of these Securities, and for the Delivery of the Securities given by the Clerk and Engineer of the District to the President of the County, to be by him kept as herein-after provided.

When Treasurer to give Security.

XXXVIII. The Treasurer for the District, unless the Treasurer be a chartered Bank, shall give to the Council sufficient Security for his duly accounting for all Monies coming to his Hands, such Security

to be proportioned to the probable Amount of Monies which may reasonably be expected to be at any One Time in his Hands.

Where the District Office is to be held.

XXXIX. The District Council shall determine where their Meetings and those of the Committee shall be held, and where their Clerk and Engineer shall have their Offices; and if there shall be no County Building within the District which with the Consent of the County Council, but not otherwise, can be conveniently arranged and allocated to such Purposes, the said District Council may, in such Case hire a convenient Building for these Purposes, and so long as such Building shall be used for such Purposes, it shall be called "The Council Office of the District;" but if after this Act shall have been in operation for *Two* Years the District Council shall consider it expedient to build a new District Council Office, they may either take on Lease or purchase Land for the Purpose, and may for such Purpose, and with the Consent of the President of the County, have recourse to the Provisions of the "Lands Clauses Consolidation Act, 1845," to enable them to purchase the Land required, and may erect a suitable Building thereon, which thenceforward shall be the Council Office of the District, and they may, with the Consent of the President of the County as aforesaid, borrow such Sum or Sums of Money on such Terms as he shall approve of for the Purchase of the Land or for the Erection of the Building, and they may levy Rates, as hereinafter directed, for the Repayment, by Instalments or otherwise, of the Principal Sums so borrowed, and of the accruing Interest thereon.

Council to meet Four Times in the Year.

XL. There shall be Four General Meetings of each District Council during the Year, and the Days on which such Meetings shall be held shall be appointed yearly by the Council of the County of which such District shall form Part.

Special Meetings of Council.

XLI. The Chairman of a District, or in his Absence the Deputy Chairman, on the Requisition of the Engineer or of a Majority of the Executive Committee, in any Case of Emergency, may convene a Special Meeting of the Council, which Special Meeting, so far as the Object for which it is convened is concerned, shall have the same Powers as the Council of such District at any usual Meeting would have; and the Cause for such Special Meeting being convened shall be stated in the Summons which the Clerk shall issue to each of the Members of the Council, and such Summons shall be issued Ten Days at least before the Day appointed for such Special Meeting.

Power of Adjournment.

XLII. The Council shall have Power to adjourn any Meeting, either to a Day named or to a Day to be named by the Chairman.

XLIII. The

XLIII. The Meetings of the Council and of the Executive Committee shall be held in public, but they may deliberate on any Question, and decide thereon in private; and the Council and Committee shall have all Powers of maintaining Order at their Meetings which a Court of Petty Sessions now has or may have hereafter; and any Order, Warrant, or Committal, signed by the Chairman of the Day, by Direction of the Council or of the Committee, in respect of the Maintenance of Order, shall be obeyed by the Constabulary and all others as if such Order, Warrant, or Committal had been issued by the Chairman of a Bench of Magistrates in Petty Sessions assembled. Meetings of Council to be in public.

XLIV. The Chairman of the Council or of the Executive Committee shall, upon any Investigation before the Council or Executive Committee, have the Power of administering an Oath to any Person examined on such Investigation; and if any Person shall wilfully swear falsely before the Council or the Committee, he shall be liable to such Punishment as by the Laws for the Time being in force relating to Perjury can or may be awarded to Persons guilty of wilful and corrupt Perjury. Power to administer Oaths.

XLV. The Clerk of the District shall keep Minutes in Writing of all the Proceedings of the Council and of the Executive Committee, and such Minutes, when signed by the Chairman of the Day, shall be Evidence in all Courts of Justice of the Decision of the Council and of the Committee; and any Ratepayer of the District may, on procuring an Order to that Effect from a Warden or Justice, inspect such Minutes, and take any Extract therefrom; and also any Ratepayer may, on Payment of the Sum of *One Shilling*, require a Copy of the Minutes of the Proceedings of any specified Day, or of any Portion thereof; and the Clerk shall furnish such Copy to him, and shall certify in Writing the Correctness thereof; and such Copy, so certified by the Clerk, shall be Evidence in all Courts of Justice of the Proceedings of the Council or of the Committee, or of such Portion thereof as it relates to. Minutes of Proceedings to be kept.

XLVI. The Council shall have Power to frame Regulations for the Conduct of its Proceedings, which, when once adopted, shall not be altered, except by the Decision of a Meeting specially called for the Reconsideration of such Regulations: Provided always, that, until other Regulations shall have been decided on, the Council shall follow, as nearly as may be, the Orders and Regulations issued by the Poor Law Commissioners for the Guidance of Boards of Guardians. Power of Council to make Regulations.

Members of Councils not to be engaged in Contracts.

XLVII. No Member of the Council shall be directly or indirectly engaged in any Contract with the Council, under a Penalty of *One hundred Pounds*, to be enforced by Action in any of Her Majesty's Superior Courts of Law at Dublin: Provided always, that a Member of the Council may be Surety for the due Performance of any Work, or for the Performance of his Duties by any Officer herein required to give Security; but in no Case shall any Member of the Council, becoming such Surety as aforesaid, vote or take Part in or be present at any Proceeding or Discussion of the Council in relation to the Work or the Performance of the Duties in respect of which he has become such Surety.

Quorum of Council.

XLVIII. *Five* Members of the Council shall in all Cases form a Quorum, except that in the Absence of both the Chairman and Deputy Chairman of the District the Presence of *One Fourth* of the entire Council shall be requisite to form a Quorum.

Quorum of Committee.

XLIX. *Three* Members of the Executive Committee shall in all Cases form a Quorum.

Adjournment of Council.

L. If within *Two* Hours of the Time appointed for any Meeting a Quorum of the Council or of the Committee shall not have assembled, the Clerk shall adjourn the Meeting until the Day Week following, and shall give public Notice thereof, and also a special Notice to every Member of the Council or of the Committee.

Duties of Clerk of the District.

LI. Duties of the Clerk of the District Board shall be—

To record all the Proceedings of the Council and of the Executive Committee:

To preserve, and produce when required, either by the Council or the Executive Committee, all Documents of any kind which have been laid before or are intended to be laid before the Committee:

To countersign and seal with the Seal of the Council all Orders of the Board or the Committee:

To send a Copy of all Decisions of the Council and of the Executive Committee to the President of the County:

To take immediate Steps to carry into effect any Orders of the Council or of the Committee:

To lay before the Council or the Committee all Applications which shall be lodged in his Office for the Purpose of being laid before the Council or the Committee, and all Documents connected therewith:

To number and classify all Applications intended to be laid before the Council, and to have them printed and published within the Time and in the Manner required herein-after:

To

To prepare the Rate Books and all Documents requisite for the Collection of Rates:

To keep the Accounts of the District; to draw out and lay before the Council, quarterly, a Statement of the financial State of the District; and to ascertain weekly the State of the Collection, and of the Treasurer's Accounts, and, if it be requisite, to call the Attention of the Chairman or Deputy Chairman thereto:

To execute all Orders of any superior Authority under this Act.

LII. The Duties of the Engineer shall be—

Duties of Engineer of the District.

To report to the Council at their quarterly Meetings on the State of all the Main Roads, and the Bridges and Works connected therewith, and of the several Jetties, Piers, or Landing Places within the District, which it is the Duty of the Council as herein-after to keep in repair, and of such other Roads as may have been placed under Contract or which may have been repaired by Order of the Council, and to make such Applications to the Council in respect thereof as he may consider requisite for their Maintenance in sufficient Repair.

To report quarterly, or forthwith in case of sudden Damage or Emergency, to the Chairman of the County, on the State of all County Roads and Bridges, and Works connected therewith, and of all County Buildings within the District:

To receive and examine into all Complaints which shall be made to him in respect of the State of Repair of any Road, Bridge, or any public Work of any kind, by any Warden or Magistrate, and to report thereon to the Council:

To prevent Encroachments on public Roads:

To examine all Applications intended to be submitted to the Council, and to have such Surveys or Examination made as shall enable him to advise the Council thereon:

To prepare such Plans, Specifications, and Estimates as may be ordered by the Council, and to verify, by Survey or otherwise, all Plans and Specifications laid before the Council, and to examine and report on the Estimates:

To prepare and lay before the Council quarterly a Statement of the Length of Roads under Contract, and of the State of the several Works in progress:

To obey the Orders of the District Council and of the Executive Committee, so far as they shall not be repugnant to any Orders he may have received from any superior Authority under this Act.

Imperative Duties of the District Council.

LIII. The Duties which shall be imperative on the Council of the District shall be—

Imperative Duties of Council.

To keep in sufficient Order and Repair all Roads within the District, and the Bridges and other Works connected therewith, where such

such Roads are main Lines of Communication between Market Town and Market Town, whether such Towns be within the District or not, or between a Market Town and a Pier or Landing Place on any Harbour, Canal, or navigable River, except, as herein-after, in respect of Bridges and Causeways the probable Cost of rebuilding or repairing which shall be estimated to exceed *Two hundred Pounds:*

To maintain in repair all such Jetties, Piers, or Landing Places within the District as have been made or repaired by Presentment or by any public Board, and the Cost of repairing or maintaining which has been heretofore borne by any Barony:

On the Application of the Wardens of an Electoral Division, to repair and maintain all other Roads within a Division which have been heretofore made or repaired by Presentment:

To make Provision, by the Levy of sufficient Rates, to be made as herein-after directed, for the Payment of the Salaries of all Officers of the District, and of all Expenditure ordered or sanctioned by the Council or the Executive Committee, and of the Proportion of the County Expenditure which under the Warrant of the Chairman of the County shall be required from the District:

To obey and carry into effect all such Orders as any Superior Authority is, under the Provisions of this Act, authorized to issue:

To make Compensation for any malicious Injury to Property within the District, in respect of which Compensation would have been heretofore chargeable against any Barony or any Portion of a Barony, when the Amount of such Compensation shall have been ascertained as herein-after provided:

To make Provision by Rates for the Repayment of Loans and the Interest thereof, for the Expenses of Valuation and Registration within the District, and for the Payment of all Charges which the Lord Lieutenant shall lawfully impose on the District or any Portion thereof.

Discretionary Powers of the District Council.

Discretionary Powers of the Council in respect of new Roads and other Works.

LIV. The discretionary Powers of the District Council shall be—

To make new Roads and Bridges and all the Works connected therewith, and to alter and improve or maintain existing Roads and Bridges, and to do all such Matters and Things connected with the Roads and Bridges or other Works connected therewith of the District as shall appear to the Council to be for the Convenience or Safety of the Public:

To alter and improve the Course of Rivers so as to diminish the Probability of Danger or Inconvenience to the Public, or of Injury to the Roads or Bridges of the District from Floods:

To

To make and maintain Piers, Jetties, or Landing Places on any Harbour, Canal, or navigable River, and Trackways by the Side thereof:

To order Surveys and Maps of the District:

To determine the Allowance which shall be paid to the Members of the Executive Committee for their Attendance in Committee, and also the Conditions under which such Payment shall be claimed by the Members thereof.

Powers of District Council subject to the Assent of the County Council.

Subject to Assent of County Council,—To execute Works not heretofore presentable by Grand Juries.

LV. Subject to the Assent of the County Council, as hereinafter provided, the Council of the District shall have Power to do any Work, not heretofore made or done on a Presentment by a Grand Jury, which it shall deem to be for the Convenience or the Advantage of the District or for the Safety of the Public, or for the Promotion of Education, or for the Public Health, or for the Maintenance of Law and Order within the District, and to levy Rates for carrying into effect all such Objects.

To raise Money on Mortgage of the Rates.

LVI. Subject as aforesaid, the Council of the District shall have Power to raise Money by Mortgage of the Rates of the District for the Execution of any Work, or for the carrying into effect any of the Provisions of this Act; provided that at no Time shall the Principal Sum due by the District exceed *One Twelfth* of the Valuation thereof, and also provided that there be Provision made in every Mortgage for the Repayment of the Principal Sum borrowed, together with Interest, by Instalments not extending over a Period of more than *Ten* Years.

To approve of certain private Undertakings in respect of which Tolls may be charged.

LVII. Subject as aforesaid, the Council of the District may approve of the Construction by private Undertakers of Works of public Utility, and may sanction the Tolls or Rates of Payment which may be charged by the Undertakers for the Use thereof, and may, with the like Assent, from Time to Time alter such Tolls or Rates of Payment, or may undertake the Execution of any Portion of such Works, or may guarantee such an Amount of Interest on the Expenditure as may be agreed on.

To approve of certain other private Undertakings.

LVIII. Subject as aforesaid, the Council of the District may approve of any private Undertaking for the Embankment of Waste of Sea or River, the straightening or deepening of Rivers, either for Purposes of Navigation or the Prevention of Injury to Property from Floods, or similar Works of private Enterprize from which

public Advantage may be derived, and may authorize the Undertakers of such Works to have recourse to the Provisions of the Lands Clauses Consolidation Act, 1845, to enable them more effectually to carry out such Works.

To sanction the Adoption of certain Acts of 1845 and 1847.

LIX. Subject as aforesaid, the Council of the District may approve of Undertakings to supply Towns with Gas, under "The Gasworks Clauses Act, 1847;" or Water, under "The Waterworks Clauses Act, 1847;" or for the Improvement or Formation of Harbours, Piers, or Docks, under "The Harbours, Docks, and Piers Clauses Act, 1847;" or for the Establishment of Fairs and Markets, under "The Markets and Fairs Clauses Act, 1847," subject, however, to the Payment of Compensation to the Owner of any Fair or Market whose Rights may be affected thereby, the Amount of such Compensation being ascertained according to the Provisions of "The Lands Clauses Consolidation Act, 1845;" and also for the Formation of Cemeteries, under "The Cemeteries Clauses Act, 1847."

Appeals.

Appeals. One Fourth of Council may appeal.

LX. There shall be Rights of Appeal against the Decision of the District Council or of the Executive Committee as follows:

In all Cases where the Decision of the District Council or of the Executive Committee on any Question would, but for the Power of Appeal herein-after given, be final, it shall be lawful for *One Fourth* in Number of the Members of the Council to appeal from the Decision of the District Council or of the Executive Committee to the Council of the County of which such District forms a Part.

Ratepayers may appeal.

LXI. If any Ratepayer shall feel himself aggrieved by any such Decision of the Council or of the Executive Committee, it shall be lawful for him, within *Seven* Days after such Decision, to appeal therefrom to the Council of the County; and in the event of such Appeal being entered into, all further Proceeding in respect of the Matter in question shall be suspended until the Council of the County shall have decided thereon; and if the Council of the County shall affirm the Decision of the District Council or of the Executive Committee, the Matter shall be dealt with as if no Appeal had been entered into; and if the Decision of the County Council shall reverse that of the District Council or of the Executive Committee, the Matter shall be dealt with as if the Decision of the County Council had been that of the District Council.

Ratepayers appealing must give Security.

LXII. In all Cases of Appeal by private Persons the Appellant shall within the Time specified give good and valid Security for the Prosecution

Prosecution of the Appeal, and for the Payment, in the event of his being unsuccessful, of all Expenses which may be incurred by the Council of the District in defending its Decision, and also for the Payment of any Penalty not exceeding *Twenty Pounds* which may be imposed on the Appellant by the County Council, and which they are hereby empowered to impose, if they shall consider the Appeal to be frivolous or vexatious; and such Costs and Penalty may be sued for in the Name of the District Council, and shall be appropriated, when recovered, in such Manner as the Council shall think right.

Wardens may appeal.

LXIII. The Wardens or Committee of Management of any Electoral Division, to be appointed as herein-after provided, may complain to the County Council on behalf of the Ratepayers of the Division, if they shall consider that the Roads or public Works within their Division are not maintained in sufficient Repair, or, if they shall consider that any Order or Decision of the Council or of the Executive Committee is injurious to their Division, they may appeal to the Council of the County against such Order or Decision.

How Costs of Appeal to be borne.

LXIV. The Costs attending such Complaint or Appeal, and of any Investigation into the Facts of the Case ordered by the County Council, shall be borne as follows: If the Complaint or Appeal of the Wardens or Committee of Management shall be found by the Decision of the County Council to be well founded, the Costs of the Complainants or Appellants shall be paid by the Treasurer of the District out of the District Rates, and in the next Rating of the District, Credit shall be given to the Electoral Division for so much as its Proportion of the entire Costs incurred may have amounted to; and if the Decision of the Council shall be against the Electoral Division, the whole of the Costs and Expenses incurred shall be charged against such Division.

One District Council may complain against another District Council.

LXV. Any District Council, either within the same County or otherwise, may complain to the Council of the County in which the District Council complained against is situated, in respect of any Neglect of sufficient Maintenance of its Roads by another District Council, or in respect of the Line of any new Road which is proposed to be made by any other District Council; and the County Council to which such Complaint is made shall make such Order thereon as, after due Investigation, it shall think right, and may order the Costs of the Inquiry to be paid by either District, subject to Appeal to the Administrative Council.

Councils of different Districts; Costs.

LXVI. If the District against which Costs may be so given be in a different County from the District in favour of which they are given,

given, the Council of such first-mentioned District may be sued for the Amount of such Costs, and the Expense of recovering them in the Court of the Assistant Barrister within whose Jurisdiction such District is situated.

Engineer of County may complain against District Council.

LXVII. The Engineer of the County may complain to the Council of the County against any District Council in respect of the Neglect of Repair of any Road or of the Roads within the District generally; and if the District Council shall neglect to obey any Directions given by the Council of the County, the Council of the County may order the Repairs to be done under the Directions of the County Engineer, and require the District Council forthwith to levy Rates for the Expenses so incurred.

Mode of Proceeding.

The Mode of proceeding in the District Council shall be as follows, where the ultimate Decision on an Application (except on Appeal) rests with such District Council:

Mode of Proceeding.

LXVIII. Every Application which is intended to be submitted to the District Council shall be made as near as may be according to One of the Forms given in the Schedule (A.) to this Act annexed, and shall, with any Plans or Specifications which are connected with it, be lodged in the Office of the Clerk *Thirty* Days at least before the quarterly Day of Meeting of the Council.

Application to be classified and published.

LXIX. The Clerk shall classify and number all such Applications, and shall separate the Applications then first made from those which are to be finally decided on as herein-after directed, and shall, *Twenty* Days at least before the Day of Meeting, send a List thereof to every Member of the Council, and *Two* Copies of such List to every Postmaster within the District, to be by them kept for public Inspection, and One or more Copies shall be sent to such Person or Place within every Electoral Division as the Council shall direct; and any Person may require a Copy of such List, on Payment of the Sum of ; and all Applications and Plans and Specifications so lodged may be examined by any Ratepayer during *Ten* Days previous to the Meeting of the Council.

To be examined by the Engineer of District.

LXX. The Engineer of the District shall examine the several Applications so lodged, and the Plans and Specifications connected with them, and shall, by personal Inspection or otherwise, prepare himself so as to be able to advise the Council or the Executive Committee thereon whenever he shall be required by them so to do.

LXXI. If

Council may approve of Application when Plans are lodged, and subsequently grant.

LXXI. If the Application shall be accompanied by Plans and Specifications, the Council may approve of the Application generally, or may approve of it with such Modifications or Alterations as they may determine on, or may disapprove of it, and if approved of they shall refer it to the Executive Committee, with Directions to obtain a provisional Contract for the Execution of the Work; and so soon as the Executive Committee shall be satisfied by the Report of the Engineer with respect to the Correctness of the Plans and Specifications lodged they shall proceed to obtain such provisional Contract for the Work, and so soon as a sufficient Contract has been provisionally completed for the Execution of the Work they shall direct the Clerk to give Notice, as herein-before provided, that the Application, along with such provisional Contract, will be brought before the Council at its next Meeting, for its final Decision; and the Council shall grant or reject the Application, and shall approve or disapprove finally of such Contract, as they shall think fit, subject, however, to the Right of Appeal herein-before given.

When Plans are not lodged.

LXXII. If the Application be not accompanied by Plans and Specifications, the Council may assent to the Application generally or conditionally, and may refer it to the Executive Committee to have Plans, Specifications, and Estimates prepared in respect of it by the Engineer of the District; and the Executive Committee shall then bring the Application for the Work before the Council, in their own Name, in the same Form and Manner as other Applications may be made; and at the ensuing Council such Application may be approved of or be rejected, and if approved of it shall be referred back to the Executive Committee to obtain provisional Contracts for the Work, as herein-before provided; and after such have been obtained, the Application, along with such provisional Contracts, shall be brought before the following Council, for final Adoption or Rejection, in the same Manner as herein-before provided, and subject to the same Right of Appeal.

Works of Urgency.

LXXIII. If any Work be applied for by the Chairman of the District and the Executive Committee as a Work of Urgency, and that the probable Cost of such Work shall be estimated by the Engineer of the District to be less than *One hundred Pounds*, and that the Council shall determine by a Majority of *Three Fourths* of the Members present that it is a Work immediately required for the Public Safety, the Council may, conditionally or otherwise, direct the Executive Committee to obtain and conclude Contracts for the Execution of the Work, and to have it executed without its being again brought before the Council; provided always, that Notice shall have been given in the Lists of Applications that the Work is applied for as One of Urgency; and in all such Cases an Appeal may be brought

against the Work, as in other Cases, unless the President of the County shall be satisfied by the Report of the County Engineer thereon that Public Safety would be endangered by delaying till the Appeal should be heard by the Council of the County, in which Case he may direct the Engineer of the District to proceed with the Work, notwithstanding such Appeal, and such Appeal shall be null and void, so far as the Order of the President shall be to the contrary thereof.

Where Two Districts are affected in the same County.

LXXIV. If the proposed Work shall affect Two Districts in the same County, the Application for the Portions of it in each District shall be brought before the Council of each District, and shall be disposed of in the same Manner as an Application for a Work within a single District; and if either Council shall in the first instance disapprove when the other approves, or in the last Stage of the Application shall reject when the other grants it, the Application shall be brought before the County Council, and the Decision of the County Council thereon shall be received and acted on by the District Councils and their Officers and Executive Committee as if such Decision had been the Decision of the several District Councils before which the Application was brought.

If in different Counties.

LXXV. If the Application shall affect Districts in different Counties, and if their respective District Councils shall not agree, the Council or the Executive Committee of the District which shall approve of the Application may appeal to the Council of the County in which the dissentient Council is situated, and the Decision of such County Council thereon shall be imperative and binding on the District Council; and if such County Council shall have so decided the District Council shall be held to have approved of or granted the Application, as the Case may be.

Roads on Border of Districts or Counties.

LXXVI. If a Road or Bridge shall be on the Boundary between Two Districts, the Council of either District may, by Agreement with the Council of the other District, have Charge thereof, and recover from it a proportional Part of the Costs of keeping it in repair, or, in the Case of a Bridge, of rebuilding it, if necessary; and the President of the County shall have Power to determine any Question which may arise thereon, or, if need be, may refer the Question to Arbitration, and may require the Council of either District to act according to the Decision of the Arbitrator; and if the Road or Bridge shall be on the Boundary between Two Counties, the Presidents of the respective Counties shall determine by what District or Districts such Road or Bridge shall be kept in repair, and the Proportion in which each District shall contribute towards the Cost thereof.

In

In the following Cases it shall not be requisite that the Application should be brought a Second Time under the Consideration of the Council, unless the Council shall determine otherwise:

Repair of Roads; Contracts, &c.

LXXVII. If the Application be for the Repair of any Road or public Work heretofore made or repaired by Presentment, or for the Repair of any Road or Work which shall have been made or erected at the Expense of the District, or for the Maintenance of any Road in repair by Contract for any Number of Years (which shall not exceed *Five* Years), the Council may grant the Application, without previous Approval, on such Conditions as it may annex thereto, and shall refer it to the Executive Committee, with Power to complete a Contract for the Execution of the Work on the Conditions annexed, either with the Applicant or with any other Contractor.

Advances on account of Works in progress.

LXXVIII. If the Application be for the Payment of Money alleged to be due in respect of any Contract, or for any Advance on account of a Work in progress, or for the Payment of any Work done, the Council may deal with the Application as seems right, and grant or reject it, or may refer the Matter to the Consideration of the Executive Committee, to be by them finally decided on: Provided always, that the Applicant shall have a Right of Appeal against such Decision, in the same Manner as is herein-after provided in Cases of Claim for Compensation.

Fixed Charge on District, and general Expenditure of Council.

LXXIX. If the Application be for the Payment of any Charge upon the District, assessed on it by the Commissioner of Valuation, or by the Lord Lieutenant, in pursuance of any Powers vested in him by this Act, or on account of the Repayment of any Loan, with the Interest thereon, or for Registration Expenses, or for the Payment of any Debt, Damages, or Costs imposed by any competent Tribunal, or for any Expenditure sanctioned by the Council or the Executive Committee, the Council may grant such Application forthwith.

List of Applications approved of by the Council to be published.

LXXX. The Clerk of the District Council shall, within *Fifteen* Days after each Meeting of the Council, publish and circulate, in the Manner herein-before provided with regard to Applications which have been made, a List of all Applications which have been approved of or been granted by the Council, together with a List of Applications granted against which Appeal shall have been lodged, and shall, within *Three* Days after every Meeting of the Council, forward to the President of the County a Copy of the Minutes of the Proceedings of such Meeting, and also, within the same Time after any Meeting of the Executive Committee, a Copy of the Minutes of

the Proceedings of such Meeting, in all Cases where the Power of final Decision shall have been deputed to it by the Council.

Works to be executed at the Cost of an Electoral Division.

LXXXI. The Council of the District may sanction the Execution of any Work of public Utility within an Electoral Division, at the sole Expense thereof, which shall be applied for by so many of the Rate-payers of the Division as shall together have paid or been liable to pay *One Half* at least of the last Rate applotted on the Division, and who shall have signed an Assent that the Cost thereof shall be borne by the Electoral Division alone; and such Work shall be executed and paid for as other public Works within the District, but the Cost thereof shall be added to the Rates of such Division.

Private Undertakings for the Improvement of Land, how to be applied for.

LXXXII. If Two or more of the Owners or principal Occupiers of Lands within a District shall desire to undertake in common the Irrigation or Warpage of their Lands (the Quantity of Land so to be irrigated or warped not being less than *Fifty* Acres), or if they shall desire to drain in common any Portion of their Lands (not being less than *Two hundred* Acres), or if they shall desire to reclaim or bring under Cultivation any Quantity of Waste Land (not being less than *Five hundred* Acres), they may apply to the District Council or Councils within which such Land is situate for its or their Sanction, in the Form and Manner in which other Applications are herein-before required to be brought before a Council, such Applications to be accompanied by Maps and Plans showing the Lands which it is proposed to improve, and also the Lands on which it is proposed to execute any Work connected with the Undertaking, and by a separate Plan of such Works, and also accompanied by a Statement of the Rights of Common, or Turbary, or Pasture, or of Lime, Stone, or Water, or any other Right whatsoever, if any there be, for which it is proposed by the Undertaking to make Compensation or Commutation in the Manner herein-after provided.

The Council may refer Application to the Executive Committee.

LXXXIII. The Council may approve of any such Undertaking, conditionally or otherwise, or may reject it, or may refer the Application to the Executive Committee, with such Powers as they may depute to them; and if approved of by the Council the Application and the several Documents connected therewith shall be forwarded to the President of the County, to be dealt with in the Manner herein-after provided.

Executive Council to examine Application, and may sanction it.

LXXXIV. If the Application be referred to the Executive Committee, the Chairman of the District shall convene a Meeting of the Committee at a Day and Hour to be by him appointed, not being less than *Twenty* Days nor more than *Thirty* Days after the Meeting of

of the Council, and, at the Expense of the Applicants, he shall give such public Notice of such Meeting as he may think proper, and also special Notice to all Parties who may be affected by the Application; and all Parties who may be so affected shall be heard either in favour or against the Application; and so much of their Examinations or Depositions as the Committee shall consider requisite shall be taken down in Writing; and the Committee shall make such Decision, either by simply approving of or rejecting, or by attaching such Conditions to the Application as they shall consider the Justice of the Case to require; and if the Decision of the Committee shall be either conditionally or otherwise favourable to the Application, they shall forward the Application, together with all Plans and other Documents connected therewith, and also the Examinations or Depositions which have been taken before them, and a Copy of their Decision thereon, to the President of the County, to be dealt with as herein-after provided.

Byelaws and Regulations.

LXXXV. All Byelaws or Regulations which the Undertakers may require for the Construction, Maintenance, or Management of the Works, or the due Distribution of Water, or for any other Purpose connected with the Undertaking, may be laid before the Council, together with the Application, or may be applied for subsequently as a new Application for the Sanction of the Council.

Straightening Rivers and Exchange of Land.

LXXXVI. If the Owners of Lands desire to straighten a River which forms the Boundary of their Lands, the Council of the District shall have Power to authorize the Work, and to sanction any Exchange of Lands which may be necessary in consequence thereof; and all Questions of Compensation shall be arranged by the President of the County as in Cases of Compensation for Lands taken for any Work under the Lands Clauses Consolidation Act, 1845, or under this Act.

WaterPower for industrial Purposes.

LXXXVII. If any Person propose to establish or be possessed of a Mill or a Factory within a District, and desire, for the Purposes of such Mill or Factory, to make a Dam across any River or Stream, or to have the Use of the Water thereof, or to carry the Watercourse or the Outlet for the Water through Lands which are not in his Possession, Application shall be made in respect thereof to the Council of the District or Districts in which such River, Stream, or Lands may be situated; and if the Council shall be of opinion that the Undertaking or Privilege applied for will be to the Advantage of the District, it shall have the Power to sanction it, subject to such Conditions as it may assign, or refer it to the Executive Committee, to be dealt with in the Manner herein-

herein-before provided, and, if finally approved of, the President of the County shall deal with all Rights, either in regard of the Land or the Water, which are affected by the Undertaking, as in Cases of Lands taken under the Lands Clauses Consolidation Act, 1845.

Where Two or more Districts are affected.

LXXXVIII. And be it enacted, That if any of the several Undertakings contemplated by the previous Clauses shall require the Approval of the Councils of Two or more Districts, and if the Council of the District in which the main Object to be effected or the larger Portion of the Lands to be improved shall be situated shall approve of it, and that the other Council shall disapprove, the Question shall be decided by the Council of the County in which the dissentient District may be situated, but with Power of Appeal to the Administrative Council of the Lord Lieutenant, should the County Council also dissent.

Proceedings where Assent of County Council requisite.

LXXXIX. When the ultimate Decision on any Application (except on Appeal) rests with the Council of the County, so soon as such Application shall have received the Approval of the District Council, it shall be dealt with as is herein-after directed in Clauses from One hundred and eighty to One hundred and eighty-six inclusive.

In respect of the financial Affairs of Districts, be it enacted, That—

Council to have Power to levy Rates.

XC. The Council of the District shall have the Power to levy Rates on the whole of the District by an equal Poundage Rate over all Property liable to pay Poor Rate according to the last Valuation thereof which shall be furnished by the Commissioner of Valuation; and the Rate Books of the District shall be drawn up in the same Form as the Poor Rate Books, and the Collections shall be conducted in the same Manner as the Collection of Poor Rates, and Receipts shall be given by the Collectors in a similar Form to that of Poor Rate Receipts, and there shall be the same Liability to the Payment of District Rates as of Poor Rates; and in any Case where the Property rated shall have been let or demised to the Occupier rated subsequent to the passing of this Act the same Proportion may, on the Payment of the Rent, be deducted by the Tenant from the Landlord, as in Cases of Poor Rates.

Executive Committee to lay before Council financial Statement.

XCI. The Executive Committee (or the Clerk, if they shall neglect to do so,) shall lay before the Council at the Commencement of each Meeting a financial Statement showing the Payments that have been made since the last Meeting on account of Works in progress, or for Works completed, as well as all other Payments authorized by the

the Council or the Executive Committee, and shall produce Vouchers for each Payment, and also a Statement of the Sums received from the Collectors of the District, and of the Amount still due by each Division, if any, and of the Balance in the Hands of the Treasurer of the District, together with a List of outstanding Claims which are chargeable against the Balance in hand, and, as near as may be, of all Charges which will probably become payable before the next Meeting of the Council; and such Statement shall separately show the State of the District Account with the Council of the County, and shall set forth the several Warrants which have been received, and the Payments which have been made on account thereof to the County Treasurer, and the Balance still due; and the Council shall have Power to object to any Portion of the Accounts, and may record their Observations thereon; and they shall cause a Copy thereof to be forwarded to the Auditor of the County, together with the Vouchers for the several Payments contained therein; and the Auditor shall have Power, with the Consent of the President, to disallow any Payment made without sufficient Authority; and the Persons who signed the Order for Payment, as well as the Clerk, if he countersigned the Order, shall be responsible for such Payment to the Treasurer; and if the Clerk has not countersigned the Order the Treasurer shall alone be responsible for the Payment.

Council to declare Amount of Rate to be levied.

XCII. The Council shall, previous to the Termination of each Meeting, taking into consideration the Amount of the several Works granted and the probable Expenditure for the next *Three* or *Six* Months as the Case may be, determine the Amount which will be required by the District, and shall depute to the Executive Committee, or in their Default to the Clerk, to applot the Sum required on the several rateable Hereditaments of the District according to the last Valuation thereof; and the Council shall also declare the Sums, if any, to which separate Divisions of the District shall be liable, in addition to the general Liability of the District, or the Amount (if any) of the general Liability from which any Division is to be exempted, as the Case may be.

Applotment to be made by Executive Committee.

XCIII. Within *Twenty* Days after each Meeting of the Council, the Executive Committee, or in their Default the Clerk, shall applot the Amount required on the rateable Hereditaments within the District according to their last Valuation, and in making such Applotment, where the Amount chargeable on the several rateable Hereditaments of the District shall involve the Fraction of a Penny, they may either omit the fractional Portion of the Penny, or levy the full Penny, as they shall think fit; and the Chairman of the District, or in his Absence the Deputy Chairman, and Two Members

of the Executive Committee, shall sign each such Applotment, and it shall be countersigned by the Clerk.

Warrants of Collection, how to be signed.

XCIV. The Chairman shall cause Notice to be given throughout the District, in such Manner as the Committee shall direct, of the Amount of Rate by the Pound of Valuation which will be levied off the District on account of its general Liability, and of the Amount of separate Rate which will be levied for separate Divisions, and also a Statement of the Exemption which may reduce the Rate of any of the Divisions within the District; and such Notice shall specify when the said Rate will be payable, and also the Names of the Persons who shall be authorized to collect the same; and a Copy of such Applotment, at Foot of which there shall be written a Warrant, signed by the Chairman, and countersigned by the Clerk, authorizing them to collect the Amount therein specified in respect of each rateable Hereditament from the Persons who may be liable for the Payment thereof, shall be given to each Person authorized to act as Collector for the District, and if there be different Collectors appointed for separate Portions of the District, then a Copy of so much only of the Applotment shall be given to each Collector as relates to the Portion of the District assigned to him, and each such Copy shall be accompanied with a Warrant to collect the Amount therein set forth, signed as aforesaid.

Rates, when may be struck.

XCV. If the Council shall determine that Rates shall be levied only in the Spring and Autumn of each Year, they shall be at liberty to strike their Rates accordingly, provided that the Council of the County shall have given its Assent thereto.

The Executive Committees of Districts.

Executive Committee, when to meet.

XCVI. The Executive Committee of the Council shall meet on some Day *Seven* Days at least previous to the Meeting of the Council, and on some other Day not less than *Seven* Days nor more than *Fifteen* Days after the Meeting of the Council, and on such other Days as they shall appoint, or on which they shall be summoned to meet by the Chairman or Deputy Chairman of the District.

Executive Committee may act in Name of the Council.

XCVII. Any Act done or Decision made by the Executive Committee, provided that it shall appear by the Minutes of the Council that it was specially deputed to the Committee by the Council to do such Act, or to decide finally on the Question so referred to them, shall be as valid and effective as if done or decided by the Council.

Minutes of Proceedings to be kept.

XCVIII. Minutes of the Proceedings of the Executive Committee shall be kept by the Clerk, and the Minutes, or any certified Copy thereof,

thereof, as herein-before provided in respect of the Minutes of the Council, shall be Evidence of the Proceedings of the Committee, so far as such Minutes purport to detail them.

How Orders for Payments to be made.

XCIX. All Payments ordered by the Council shall be made by the Committee, by an Order on the Treasurer, signed by the Chairman or Deputy Chairman of the District and Two other Members of the Committee, and shall be countersigned by the Clerk; but in case of the Absence of the Chairman and Deputy Chairman of the District, an Order for Payment, signed by the Chairman of the Day and *Three* other Members of the Committee, if countersigned by the Clerk, shall be sufficient.

Committee may recommend Advances.

C. At the Recommendation of the Engineer of the District, the Committee may order Advances to be made on account of Works in progress, such Advance not exceeding in the whole *Two Thirds* of the Value of the Work done.

Sudden Damages to Roads or Bridges.

CI. In case of any sudden Damage to a Road or Bridge by which it shall be rendered dangerous or impassable, the Committee may order such Repairs as shall render it safe for or available to the Public; and if the probable Cost of such Repair shall not exceed *Ten Pounds*, any Two Members of the Committee, at the Recommendation of the Engineer, may order the necessary Repairs to be done.

Obtaining Contracts for the Execution of Works.

CII. The Executive Committee shall take Measures to obtain Contracts for all Works which have been approved of by the Council, and when satisfied with the Solvency of the Security offered, and with the Terms of the Contract, may complete it conditionally, subject to the final Approbation of the Council, in the Manner herein-before provided.

Death or Inability of the Council. Misconduct of Officers.

CIII. The Committee, in case of the Death or Inability to act of any Officer of the Council, may appoint a Person to do the Duties of such Officer provisionally, and such Person shall have all the Powers and Rights and be subject to all the Responsibility attaching to the Office, and in case of Misconduct on the Part of any Officer they may suspend him provisionally, and appoint another Person to act for him until the Council shall have met and have decided on the Case.

Death or Insolvency of Sureties.

CIV. In case of the Death or Insolvency or reputed Insolvency of any Person who has given Security to the Council for the due Performance of any Duty or the Execution of any Work, they may require new Security, and may suspend any Officer on whose Behalf

such original Security was given until a new Security be given, and may appoint another Person as aforesaid provisionally, or they may suspend the Progress of any Work until it shall have been dealt with by the Council as it shall seem just.

To superintend the Collection of Rates.

CV. The Executive Committee shall superintend the Collection of the Rates, and shall have Power to compel the Collectors to produce their Books for the Inspection of the Committee, and to account for all the Rates collected, and in case of Neglect or Misconduct shall also have Power to resume the Rate Books, and to appoint other Persons to collect the Rates; and any Collector disobeying the Orders of the Committee may be fined by them in any Amount not exceeding to be recovered by Process in the Court of the Assistant Barrister in the Name of the Council; and if any Collector shall refuse or neglect to deliver to the Committee the Rate Books and all other Documents required for the Collection of Rates, such Books or Documents may be searched for and taken possession of by Warrant signed by Two Justices; and if such Books or Documents cannot be found, and it be considered that they are wilfully detained by such Collector, the Body of the Collector may, on Warrant signed by Two Justices, be taken and kept in Prison until the Books be given up, or until the Council shall have determined respecting the Matter.

To superintend the Progress of Works.

CVI. If the Engineer of the District shall report to the Executive Committee that the Contractor for any Work or for the Maintenance of any Road is using bad Materials or executing the Work badly, or is not using due Diligence in the Execution of the Work, the Executive Committee shall have Power to inquire into the Matter, and may suspend the Work until the Meeting of the Council, or in case of a Contract for the repairing of any Road they may, with the Consent of the Chairman of the District, or in his Absence of the Deputy Chairman, authorize the Engineer to do such Work at the Expense of the Contractor as the Contractor ought to have done; and if the Amount so expended shall exceed the Amount of the Contract, the Contractor or his Sureties may be sued for the full Amount so expended in Excess of his Contract; or, if the Council shall so determine, such Excess of Expenditure shall be charged to the general Expenditure of the District; and if the Council, on any Complaint so made, shall determine that the Contractor in any Work has not duly observed the Terms and Conditions of his Contract, they shall be at liberty to determine and put an end to such Contract, and to order a new Contract to be entered into with another Contractor for the Completion of the Work, and may make such Order in respect of Payment of the Value of the Work done as the Justice of the Case

Case may require; and if the Contractor shall feel aggrieved by such Determination of the Council or of the Executive Committee, he may appeal against it in the Manner herein-after provided.

To advertise for Contracts.

CVII. If any Application for any Work shall have been approved of by the Council, and shall have been referred to the Executive Committee, the Executive Committee, or if they neglect to do so the Clerk, shall within *Fifteen* Days after the Meeting of the Council publish in One or more Newspapers circulating within the District, and in such other Manner as the Committee shall direct, a List of Works for which Contracts are required, with the Time during which Tenders for Contracts may be lodged, such List to be numbered and classified as in the previous List brought before the Council; and the Maps and Plans and Specifications for all Works for which Contracts are required shall be open to Inspection by the Public at the District Office daily between the Hours of Ten and Four for a Period of not less than *Fifteen* Days after such Publication, and during such Period Extracts or Tracings may be taken therefrom.

With whom Contracts are to be made.

CVIII. All Tenders for Contracts shall be sent, sealed, to the District Office, and a Number shall be endorsed thereon corresponding with the Number of the Work; and every Tender shall contain the Assent in Writing of One or more sufficiently solvent Persons who are willing to give Security for the proper Execution of the Work by the Party tendering; and the Tenders shall be opened by the Clerk in the Presence of the Executive Committee; and if they shall be satisfied with the Competence of the Contractor and the Sufficiency of the Security for an Amount not less than *double* that of the Amount of the Contract, they shall select the Person who shall have offered to do the Contract for the lowest Amount, and shall order the Contract to be completed accordingly, subject, however, to the ultimate Decision of the Council upon the Application; and if the Contract shall not be completed by the Signature of all the Parties before the Clerk (or in case of Illness or Inability to attend at the Office of the Clerk before some Member of the Executive Committee), or in case any of the Parties withdraw before the Completion of the Contract, the Executive Committee shall have Power to complete a conditional Contract with another Party; or if no sufficient Contractor shall be found, they may require the District Engineer to prepare an Estimate for the Execution of the Work, and may propose to the Council to place the Execution of the Work in his Hands; or the Executive Committee may order a supplemental List to be published of Works for which no Contractor has appeared, and appoint a further Day for the Reception of Tenders for Contracts, and shall deal with them as herein-before provided.

When Works to be proceeded with.

CIX. If within *Seven* Days after the final granting of an Application no Appeal against it shall have been lodged, and the President shall have issued no Order of Suspension of the Work, as herein-after provided, the Work may be proceeded with; but if there shall have been an Appeal lodged, and due Security given in respect of the Prosecution thereof, or if the President shall have issued an Order of Suspension, the Work shall be suspended until the Decision of the County Council, or of the Lord Lieutenant, or of the Administrative Council, as the Case may be, in the Manner herein-after provided, shall have been had thereon.

In case of Appeal, Notice to be given to County Council.

CX. In all Cases of Appeal the Clerk shall forthwith give Notice of such Appeal to the Clerk of the Council of the County, and shall forward to him the Application and all Documents connected therewith, to be dealt with as herein-after provided.

Damages and Compensation, how be claimed.

CXI. In case of Damages or Compensation being claimed by any Party in respect of any public Work granted by the Council, or in respect of any Decision of the Executive Committee, the Applicant shall, within *Ten* Days after the final granting of the Application, or after such Decision of the Executive Committee, lodge his Claim with the Clerk; and if the Executive Committee and the Parties can agree thereon, the Amount of Compensation to be paid shall be brought before the next Council by the Executive Committee, in the Form of an Application; and if the Council shall agree to it, the Application may be at once granted; but if the Parties cannot agree, or if after they have agreed the Council shall disapprove of such Agreement, the Case shall be dealt with by the Courts of Law having Jurisdiction over the Matter as in ordinary Cases of Damages or Compensation.

Compensation for malicious Injuries, how to be claimed.

CXII. In any Case of Claim for Compensation for malicious Injury done to Property, where the Party aggrieved would before the coming into operation of this Act have been entitled to Compensation from the County or any Part thereof, the Applicant shall, within Ten Days after the Damage has been done, lodge a full Statement of his Claim with the Clerk of the Council of the District within which the Property to which such Injury has been done is situated, and the Executive Committee shall deal with such Claim as with other Cases of Claim for Compensation or Damages; and the Council may at its next Meeting grant or reject the Claim, or reduce the Amount thereof, and may charge the Compensation to be paid against the whole District, or against One or more Electoral Divisions of the District; and against such Decision of the Council the Applicant shall have the same Right of Appeal as in other Cases of Claim for Compensation: Provided always, that if the Damage shall have been done at a Time so near the next Meeting of the Council that the Executive Committee shall have

have been unable to consider the Claim in Time to report thereon to such Meeting, the Council may depute to the Executive Committee the final granting or Rejection of the Claim, or may postpone its Consideration until their next subsequent Meeting.

The Committee of Management of an Electoral Division.

Ratepayers of an Electoral Division may claim to have a Committee of Management.

CXIII. If the Ratepayers of any Electoral Division shall be desirous to have a Committee of Management of the Division, the Chairman of the District shall (on the Requisition of so many of the Ratepayers as shall appear by the Rate Books to be liable together to at least *One Half* of the Rates of the Division, according to the last Rate struck for Poor Law Purposes, if no District Rate has been hitherto struck, or otherwise according to the last District Rate,) convene a Meeting of the Ratepayers of such Division, at such Time (not being less than *Twenty* Days nor more than *Thirty*) from the Time of receiving the Requisition and at such Place (being in or conveniently near to such Division) as he shall determine, and shall cause Notice of such Meeting to be forthwith posted on all such Places of public Resort within the Division as he shall think may best apprise the Ratepayers of the Meeting, and shall make One or more Publications of such intended Meeting in such Newspaper or Newspapers circulating within the District as he shall think proper; and all Expenses connected with such Meeting and the subsequent Proceedings shall be chargeable by the Executive Committee of the District Council to the Electoral Division.

Meeting to consider Question, how to be convened

A Majority of the Ratepayers must be present at such Meeting.

CXIV. The Chairman of the District, or by his Direction the Deputy Chairman, or some Justice appearing by the Rate Books to be an Owner or Occupier within the Division, shall preside at such Meeting; and all Persons rated in respect of any Property within the Division shall be entitled to take Part in the Proceedings, and to vote; and such Persons so assembled, provided a Majority in Number or in Value of the Ratepayers as appearing by the Rate Books shall be present, shall determine whether there shall be a Committee of Management elected or otherwise, and shall also determine the Number of Members, not being less than *Five* nor more than *Ten*, of which such Committee shall be composed, as well as the Persons who shall form such Committee.

Questions which are to be decided by Voting Papers.

CXV. If at such Meeting a Majority in Number or in Value of the Ratepayers of the Division as appearing by the Rate Books shall not be present, or if, such Majority being present, any Question submitted to the Meeting be not affirmed by a Majority of *Three Fourths* at least of the Ratepayers attending the Meeting, the Chairman shall declare that the Opinion of the Ratepayers shall be ascertained by

way of Voting Papers, as in the Case of an Election of Wardens under this Act, so far as any Question arising out of the original Requisition shall not have been decided by such Majority of *Three Fourths* of the Ratepayers present, and he shall declare the Questions to be submitted to the Ratepayers, and the Day on or before which their Answers thereto must be lodged with the Clerk of the District, and the Chairman shall thereupon dissolve the Meeting; and the Clerk of the District shall forthwith proceed to have Voting Papers prepared in reference to the Questions so directed by the Chairman to be submitted to the Ratepayers, and such Voting Papers shall be distributed among the Ratepayers of the Division, and subsequently collected, as in the Case of an Election of Wardens; and each Ratepayer shall sign the Voting Paper or Papers submitted to him after giving Answers thereto; and if any Ratepayer shall be unable to write, he shall affix his Mark in the Presence of some Ratepayer, who shall certify by his Signature his being Witness thereto.

Proxies and Pluralities of Votes allowed.

CXVI. The Voting Papers shall be sent to every Person residing within the District who would have been entitled to take part in and vote at the Meeting; and every Vote shall have the same Potency in respect of Plurality, and the same Proxies shall be available, as in other Elections under this Act.

Chairman of District to declare the Result.

CXVII. The Chairman of the District shall appoint a Day within *Seven* Days after the Collection of the Voting Papers on which he shall publicly examine the several Answers sent in, and declare the Result of the Votes so obtained, with reference to all Questions which shall have been submitted to the Ratepayers; and a Minute of such Result so declared by the Chairman shall be signed by him, and be countersigned by the Clerk, and shall together with the Voting Papers be laid before the Council of the District at its next Meeting; and the Council shall either ratify such Result, or if there shall, by Examination of the Voting Papers or otherwise, appear to be sufficient Cause for doing so, they may order any Matter which has been so submitted to the Ratepayers to be again submitted to them.

Committee of Management elected for Three Years.

CXVIII. The Committee of Management, when so appointed, shall be elected for *Three* Years, and at the End of that Period another Committee shall be elected by the Ratepayers, under the Directions of the Chairman of the District for the Time being, in the same Manner, and subject to the same Reference to the Council, as at the First Election; and every Committee of Management shall continue in Office for Three Years from the Time of its Election, or until such Time after the Expiration of the *Three* Years as a new Committee shall have been declared elected as aforesaid, and if there shall be

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at any Time a Vacancy in the Committee, the remaining Members of the Committee may elect a Ratepayer to supply the Vacancy for the Period of their Continuance in Office.

Chairman and Deputy of the Division to be appointed.

CXIX. The Committee so appointed may appoint a Chairman and Deputy Chairman of the Division, and also a Clerk, and the Duties, Rights, and Privileges of such Chairman, Deputy Chairman, and Clerk shall be, in respect of the Proceedings of the Committee, and all Matters within their Authority, and also in respect of the Maintenance of Order at the Meetings of the Committee, similar to those which have been herein-before assigned to the Chairman, Deputy Chairman, and the Clerk of any District Council.

General Powers of the Committee of Management.

CXX. The Committee of Management of an Electoral Division may take all such Measures as may be required for the Improvement of the sanitary State of the Division, and may, with the Consent of the President of the County, make such Orders and Regulations as local Circumstances may require for the Interests or Convenience of the Inhabitants of the Division, or for the general Interests, and may impose a Penalty not exceeding *Forty Shillings* for any Infraction thereof, and may incur such Expenditure as may be required for the Improvement or good Order of the Division, either by the Execution of Works or the Appointment of Officers, and the Payment of such Salaries as may be assigned to them.

Expenditure to be met by specialRates.

CXXI. All Expenditure of the Committee of Management shall be paid out of special Rates to be levied off the Electoral Division in the Manner herein-after provided.

When the Committee shall meet.

CXXII. The Committee of Management shall meet on the First Monday in every Month, and at every Meeting the Chairman or Deputy Chairman of the Division and Two other Members shall form a Quorum, or in the Absence of the Chairman and Deputy Chairman a clear Majority of the Committee shall be requisite to form a Quorum.

Notice to be given to Members of Subject to be considered.

CXXIII. *Seven* Days at least before each Meeting, Notice shall be given to every Member of the Committee of any Subject to be brought before such Meeting; and no Subject involving an Expenditure of more than Pounds, or the Establishment of any local Order or Regulation, shall be brought forward at any Meeting, unless Notice thereof shall have been given to the Chairman at a previous ordinary Meeting of the Committee, and that it shall have been inserted in the Minutes.

How Notice is to be given to the Ratepayers.

CXXIV. If any Proposition involving an Expenditure of more than Pounds, or for the Establishment of any local Order or Regulation, be brought before the Committee, and that it be provisionally approved of, Notice of such Approval shall be given to the Ratepayers as follows:

A Copy of the Resolution shall be forthwith posted in the Place within the Electoral Division which shall have been assigned for the Publication of Notices, and should it be removed or become illegible it shall be renewed, and, if necessary, more than once, so that, so far as depends on the due posting thereof, it may be read by the Ratepayers on Two Sundays subsequent to the first Consideration and prior to the last Consideration thereof by the Committee, the Day for such last Consideration being stated in such Notice:

A similar Copy shall be affixed outside every Post Office within the Electoral Division:

A Copy thereof shall also be sent to the Chairman of the District; and if the Proposition be for the Adoption of any Order or Regulation which involves a Penalty for the Infraction thereof, a Copy shall also be forwarded to the President of the County.

Proposition approved of must be subsequently confirmed.

CXXV. A Proposition provisionally approved of at One Meeting of the Committee may be confirmed at the next Meeting thereof, but no Proceeding shall be taken to carry it into effect for *Ten* Days subsequent to such Confirmation.

How Decision of the Committee may be suspended.

CXXVI. The President of the County or the Chairman of the District may interpose and suspend the Execution of any Determination of the Committee, if he shall consider that the general Interest or the Interests of the District are affected thereby, until the Decision of the Administrative Council of the Lord Lieutenant or of the District Council shall have been had thereon, and the Decision of the Superior Council thereon shall be final.

Committee may appeal against such Decision.

CXXVII. The Committee of Management may appeal from the Decision of the District Council to the Council of the County, or from the Decision of the Council of the County to the Lord Lieutenant in Council, and such last Decision shall be final.

Ratepayers may appeal.

CXXVIII. Any Ratepayers may appeal to the Council of the District against a Resolution of the Committee, on entering into Security in the Sum of *Twenty Pounds*, before the Chairman of the District or before a Justice of the District, as in other Cases of Appeal under this Act, the Bond to be conditioned for the Prosecution of the Appeal, the Payment of Costs, and of any Penalty not exceeding *Five*

Five Pounds which may be imposed by the Council, should the Appeal be considered by them to be frivolous or vexatious.

Persons resident in Division, subject to the Byelaws.

CXXIX. All Persons residing within an Electoral Division which shall have a Committee of Management shall be liable to the Penalty for the Infraction of any Order or Regulation made by such Committee of Management, and no other Persons shall be liable to such Penalty, unless there shall be such public and legible Notice of such Order and Regulation that the Infraction thereof shall appear to the Magistrate before whom such Penalty may be sought to be enforced to have been wilful; and when any Orders and Regulations made by the Committee of Management of any Division shall have been finally sanctioned by the President of the County, a Copy thereof, signed by the Clerk of the Committee, shall be given to every Ratepayer who shall apply to him for the same; and any Copy so signed shall be Evidence of such Rules and Regulations, and all Magistrates and Constables shall act thereon.

Cases of Urgency.

CXXX. The Committee of Management of a Division may, in case of Urgency, without the Assent of a Second Meeting, decide on any Matter the Expenditure in respect of which shall not exceed *Twenty Pounds;* provided that One of the Wardens of the Division or the Engineer of the District shall certify to the Urgency of the Case; and also provided, that Notice of such Expenditure being required for urgent Reasons shall have been given to the Members of the Committee and to the Chairman of the District at least *Seven* Days before the Day of Meeting at which such Matter shall be considered; and the Chairman of the District shall in all Cases have Power to refuse to allow the Proposition to be considered as a Case of Urgency.

Engineer of District responsible for the Works in the Division.

CXXXI. The Engineer of the District shall be responsible for the Execution of all Works undertaken by the Committee (unless the Committee shall, with the Consent of the Council, otherwise determine), and all Plans and Sections of Works to be undertaken by the Committee shall be submitted to him, and shall not be proceeded with until they have been sanctioned by him, nor shall any Payment be made on account of any Work in progress, or in full for any Work completed without his Sanction.

The Committee may claim to contract with District Council for Repairs of Roads.

CXXXII. The Committee of Management may claim to contract with the Council of the District for the Maintenance of the Streets, Roads, and other public Thoroughfares within the Division; and if the Executive Committee of the District and the Committee of Management shall be unable to agree as to the Amount that shall be paid by the

the District in respect of such Contract, the County Engineer shall decide the Matter in dispute; and in case the Executive Committee of the District shall be dissatisfied with the Manner in which such Contract shall have been executed by the Committee of Management, and shall refuse to pay the Amount so determined on, and that the Council of the District shall affirm their Decision, the President of the County, with the Advice of the County Engineer shall decide the Question in dispute, and also by which Party any Costs incurred shall be paid.

The Council of the County may annul such Contract.

CXXXIII. The Council of the County may, on Complaint made by any District Council, and established to their Satisfaction, declare that the Contract so made with the Committee of Management shall be determined, and that thenceforward, and until a new Committee of Management shall have been elected, all the Roads, Streets, and Thoroughfares of the Division shall remain under the sole Charge of the District Council.

Tenders for Works to be advertised for.

CXXXIV. The Committee of Management shall give public Notice throughout the Division of all Works which it is proposed to execute, and if the probable Cost thereof shall exceed *Twenty* Pounds they shall give further Notice by Publication thereof in One or more Newspapers circulating within the District, and they shall call for Tenders for the Execution of such Works, and appoint the Day on or before which such Tenders shall be sent in; and all Maps and Plans and Specifications in respect thereto shall be lodged in some public Place, and be open to the Inspection of the Public for at least *Fifteen* Days, and a Copy thereof shall in all Cases where such Map, Plan, or Specification has not been prepared by him be sent to the District Engineer.

Tenders to be opened in public.

CXXXV. All Tenders shall be opened in public; and if any Person shall feel himself aggrieved by any Decision of the Committee of Management in respect of the Acceptance of any Tender, he may make a Representation of the Case to the Chairman of the District within Four Days after the opening of the Tenders; and the Chairman may, if he think there is sufficient Cause for doing so, order that the Acceptance of the Tender be suspended until the Case shall have been brought under the Consideration of the Council or of the Executive Committee thereof; and the Council or Executive Committee shall give their Decision thereon within *Twenty-one* Days from such Order, otherwise the Decision of the Committee of Management shall be held good.

CXXXVI. In

CXXXVI. In the Case of Appointment of Officers, no Person shall be appointed by the Committee unless Notice shall have been given to the Ratepayers and to the Chairman of the District, and to the President of the County, of the Intention of the Committee to make the Appointment, and of the Salary which it is proposed to assign to the Officer to be appointed; and there shall be the same Power of Suspension and of Appeal as in the Case of Works or Orders and Regulations as herein-before provided. Notice to Ratepayers of Appointment of Officers.

CXXXVII. In respect of Expenditure, an Estimate shall be made every *Six* Months by the Committee of the probable Expenditure which will be incurred during the *Six* Months next ensuing; and in such Estimate shall be included a Specification of the Works which the Committee shall have decided on, together with the probable Cost of Management, and the Amount of Salaries which will be payable; and such Estimate may include a Sum not exceeding *Twenty Pounds* as for Contingencies. Estimate to be made of probable Expenditure.

CXXXVIII. Notice shall be given to the Ratepayers of the Division, in the usual Manner, of such Estimate having been agreed to, and within not less than *Seven* Days after its being agreed to, and not more than *Ten* Days, a Copy shall be transmitted to the Chairman of the District, who, if there shall be Complaints against the Estimate made by the Ratepayers, shall, with the Assistance of the Executive Committee of the District, examine into such Complaints, and make such Decision thereon as, with the Assent of the Executive Committee, he shall think right; or if there be no Complaints, and such Chairman shall be satisfied with the Estimate, or if he and the Executive Committee shall consider the Complaints so made unfounded, he shall sign the Estimate as approved of; but if any Difference shall arise between the Chairman of the District and the Executive Committee, on the one Hand, and the Committee of Management on the other, the Question in dispute shall be referred to the President of the County, whose Decision thereon shall be final. Notice thereof to be given to the Ratepayers, who may appeal.

CXXXIX. The Chairman of the Committee of Management shall, when the Estimate shall have been finally agreed to, issue a Warrant to that One of the District Collectors within whose District of Collection the Division lies, directing the Amount required by such Estimate to be levied off the Division, and defining the Period within which such Amount shall be collected; or if the Committee of Management shall on their own personal Responsibility undertake the Collection, such Chairman shall issue the necessary Warrant to such Person as shall be appointed by the Committee, and the Person so appointed shall collect in the same Manner and have the same How the Collection of Rates is to be made.

same Powers and be subject to the same Liabilities and Restrictions as any District Collector.

How Payments are to be made.

CXL. The Amount collected shall be paid to the District Treasurer, who shall open a separate Account to the Credit of the Committee of Management, and all Payments made thereout shall be on an Order signed by the Chairman and Two others of such Committee, and shall be countersigned by the Clerk of the Division; and when a subsequent Rate shall be required, or at the End of *Twelve* Months, if no new Rate be then required, the Committee shall forward to the Auditor of the County, to be appointed as herein-after provided, a Copy of their Accounts, showing every Item of Expenditure, and the Authority under which it is incurred, with sufficient Vouchers for the Payments made and if such Accounts shall appear to be correct, the Auditor may sign such Accounts as approved of; and in no Case shall any new Rate be levied off the Division until such Accounts shall have been so signed.

Power of the Auditor in respect to the Account.

CXLI. If the Auditor of the County shall object to any Payment which has been made, he may disallow it, and strike it out of the Account, (subject, however, to an Appeal to the President of the County, who may decide thereon finally,) and if not ultimately allowed such Item shall be recovered by summary Process before a Magistrate as in Cases of Servants Wages, from those of the Committee or any of them who shall have signed the Order on which the Payment was made, together with all Costs for the Recovery thereof, and the Amount so recovered shall be placed to the Credit of the Division.

Accounts to be open for Inspection.

CXLII. A Copy of all such Accounts shall be open in the Office of the Clerk for at least *Ten* Days, for public Inspection, previous to their being forwarded to the Auditor; and a Notice that such Accounts are open for Inspection shall be posted as in the Case of Notices for Works.

Subsequent Rates, how to be struck

CXLIII. When a new Rate shall be required a similar Estimate shall be made as herein-before provided; and it shall be brought before the Chairman of the District for his Approval, and he shall have the same Power of Objection thereto, subject to Appeal as aforesaid, as in the Case of the First Estimate.

The Committee may sue and be sued.

CXLIV. The Committee of Management may sue or be sued in the Name of the Committee as "The Committee of Management of the Division, and each Member thereof shall be personally responsible for all his Acts as Member of such Committee, and

and for the Acts of any Meeting at which he was present, and from whose Decision he did not dissent, and cause at such Meeting his Dissent therefrom to be entered on the Minutes.

Minutes of Proceedings to be open to Ratepayers.

CXLV. The Minutes of the Committee shall record every Proposition made to the Committee, and their Decision thereon; and a Copy thereof shall be forwarded to the President of the County, and also to the Chairman of the District; and the Minutes shall be open to the Inspection of the Ratepayers at all Times within reasonable Hours; and every Ratepayer may make a Copy thereof or of any Portion thereof, or the Clerk may be required to give a Copy thereof (certified by him to be correct), on Payment of the Sum of for each Day's Proceedings required; and such Copies shall be received in all Courts of Justice as Evidence of such Proceedings.

Committee may hire or erect Building for Office.

CXLVI. The Committee may hire on Lease any Building required for the due Performance of their Duties, and, with the Consent of the Council of the District and the President of the County, may hire or purchase Land for the Erection of a Building thereon suitable for such Purpose, and may, with such Consent, and at the sole Cost of the Division, erect such Building thereon as they may deem requisite for the Execution of their Duties, and for such Purpose the President of the County shall have the same Power of applying the "Lands Clauses Consolidation Act, 1845," as in any Case of District Works.

Powers of Committee of Management.

CLXVII. The Committee of Management shall have in respect of Works not heretofore executed on Presentment by a Grand Jury, or of private Undertakings within the Electoral Division, all the Power and Authority by this Act given to the Council of the District in respect of the District or any Portion thereof; but every Decision of the Committee of Management in respect of such Works or Undertakings shall be brought under the Consideration of the Council of the District, in the same Form and Manner as any other Application to the Council; and the Decision of the District Council thereon shall be final; unless, first, the Committee of Management shall appeal therefrom to the County Council; or, secondly, an Appeal as in other Cases of Appeal shall be lodged against such Decision; or, thirdly, unless the President of the County shall require that such Decision shall be submitted to the County Council on the Grounds of the general Interests or the Interests of the County being affected thereby.

Powers of President as regards Works

CXLVIII. When such Works or Undertakings shall have been finally decided on, the President shall have the like Power of applying the herein-before recited Acts of One thousand eight hundred and

undertaken by Committee.

forty-five and One thousand eight hundred and forty-seven as is given to him in respect of any County or District Works.

Power to raise Money on Mortgage of Rates.

CXLIX. The Committee of Management shall have Power to raise Money by Bond, Mortgage, or otherwise on the Security of the Rates; provided that at no One Period shall the entire Principal of all the Monies borrowed and secured by the Rates exceed *One Twentieth* of the Valuation of the Electoral Division, nor shall in any Case Money be borrowed by any Committee of Management without the previous Sanction of the District Council and of the President.

Counties.

Fiscal Affairs of Counties to be managed by Councils composed of Deputies.

CL. The fiscal Affairs of Counties shall be managed by a Council to be constituted as follows: The Lord Lieutenant shall declare, by Publication in the Dublin Gazette and in some Newspaper circulating within the County, the Time and Place or Times and Places at which the Members of each County Council shall first be elected, and shall also declare the Number of Deputies which each District Council shall furnish as Members of the Council of the County within which such District Council shall be situated; and the Justices of the County shall, at a Meeting to be convened by the Sheriff thereof, and to be presided over by him, select from the Justices or others resident within the County, or within any County of a City or Town within such County, a Number equal to the whole Number of the Deputies to be furnished by the District Councils; and the Persons so selected, and the Deputies furnished by the District Councils, together with the Lieutenant or Vice-Lieutenant of the County, unless he be also President of the County, shall form the Council of the County, and the Council so constituted shall continue in Office until the next General Election of District Councils, and until their Successors shall be appointed.

Deputies from the District, how to be elected.

CLI. The Deputies from the District Councils shall be selected as follows: The Chairman shall cause Notice to be given to the Members of the District Council of the Day on which the Deputies shall be selected, and on the Day appointed the Clerk shall prepare a sufficient Number of Slips of Paper, and shall distribute them among the Members present; and each such Member shall write on the Slip of Paper given to him the Names of such Persons, whether Members of the Council or otherwise, whom he shall propose as Deputies from the District Council, and having folded up such Paper he shall deliver it to the Clerk; and the Clerk and Chairman, or some Person appointed by the Meeting for the Purpose, shall ascertain from the Voting Papers and declare the Names of those who have received the greatest Number of Votes; and if any Question shall

shall arise with reference to the Election, the Meeting may determine on a new Distribution of Voting Papers, which shall be filled up as aforesaid; and so soon as the Election shall be finally declared the Voting Papers shall be destroyed by the Clerk; and the Names of the Persons so selected shall be returned by the Clerk at the First Election to the Sheriff of the County, but at all subsequent Elections to the President of the County, as the Deputies from the District Council.

How long Deputies are to continue in Office.

CLII. The Persons so selected, if they be Wardens of any District, shall not cease to be Deputies to the County Council by reason of any Change of Members in the District Council, as herein-before provided for.

First Election of Deputies by the Justices.

CLIII. The Sheriff of each County shall take all the preparatory Steps for the Selection of Deputies by the Justices in respect of the First Election of a County Council; but thenceforward the President of the County shall provide for and superintend the Elections, and shall convene the Justices of the County to meet when required, and he, or, if absent, the Vice-President of the County, shall preside at all Meetings for such Purpose.

Power of District Council to revoke their Deputation.

CLIV. Any District Council, at a Meeting specially convened, or at any Meeting when special Notice shall have been given to the Chairman of the District of the Intention to raise the Question, shall have Power to revoke their Deputation of any Member to the County Council, and to appoint another in his Place; provided that such Revocation be agreed to by *Three Fourths* at least of the Members present, and that Notice of the Intention to propose the Revocation of his Deputation shall have been given to the Deputy whom it is proposed to displace *Fourteen* Days at least before such Meeting.

Justices may revoke their Deputation.

CLV. The Justices of a County may, in like Manner, at a Meeting convened by the President of the County, on a Requisition signed by at least *Ten* Justices and by a like Majority of *Three Fourths*, revoke their Deputation of any Person to the County Council, and select another Person in the Place of the Deputy so displaced; and the Deputy then elected shall remain in Office so long only as he in whose Place he may have been substituted would but for such Revocation have remained in Office.

Chairman and Deputy Chairman to be elected by Council.

CLVI. The First Meeting of the First Council shall be convened by the Sheriff, and he shall preside thereat until a Chairman of the County, as herein-after directed, shall have been elected; and if a Majority of the Council shall be present at such Meeting, the Members may forthwith (or if they shall so decide at an Adjourn-

ment of such Meeting) elect a Chairman and a Deputy Chairman of the County; and in no Case shall a Chairman or Deputy Chairman be elected unless a Majority of the Council shall be present at the Meeting at which such Election shall be taken into consideration; and the Chairman and Deputy Chairman shall, unless they or he shall resign, or be incapacitated from Illness or other Cause, continue in Office during the Continuance of the Council by whom they or he shall have been elected; and when any Vacancy shall occur, and be declared by the Council, another Person shall as soon as may be be elected Chairman or Deputy Chairman, as the Case may be, in the Room of the Person who has so resigned or been incapacitated.

Chairman or Deputy Chairman to preside.

CLVII. The Chairman, or in his Absence the Deputy Chairman, shall preside at all Meetings of the Council or of the Executive Committee to be appointed as herein-before directed; but in the event of both the Chairman and Deputy Chairman being absent, a Chairman of the Day shall be elected; and the Authority, Duties, and Privileges of the Chairman and Deputy Chairman of the Council of the County, at all Meetings of the Council and of the Executive Committee thereof, shall be in respect to such Council and Committee the same as those herein-before assigned to the Chairman and Deputy Chairman of each District Council and Executive Committee in respect to such last-mentioned Council and Committee.

Council of County to be a Body Corporate, and shall have Power to appoint an Executive Committee.

CLVIII. The Council of every County shall be a Body Corporate under the Name of the County Council, and shall have perpetual Succession and a Common Seal, and may sue and be sued, and may acquire and hold Lands as a Corporation, and shall have and be subject to all other Rights, Privileges, and Liabilities belonging to a Body Corporate, and the Council of every County shall have the same Powers of maintaining Order at Meetings, and of Adjournment, and holding Special Meetings, and of forming Rules for the Regulation of their Proceedings, and of appointing and dismissing Officers, and of assigning Salaries to them, and of appointing an Executive Committee of not more than Nine nor less than Five Members, and of deputing to such Executive Committee such Powers of acting in the Name and with the Authority of the Council as have been herein-before assigned to District Council; and the County Council shall also be empowered to assign Allowances to the Members of the Committee in respect of their travelling Expenses to and from the Place of Meeting of the Committee for the Purposes of this Act, and for their reasonable Expenses while in attendance on such Committee; and the Executive Committee so appointed shall, so far as may be required for the Duties herein-after assigned to the Council of a County, have similar Powers and

and Authority to those given to the Executive Committee of a Council of a District.

Mode of proceeding to be the same as that of District Council.

CLIX. In respect of the Execution of the Duties assigned under this Act to the Council of a County (except so far as may be hereinafter otherwise directed), the Mode of proceeding shall in all respects be the same, as near as may be, as the Mode of proceeding which the Council of a District are required to observe and follow.

County Officers to be appointed.

CLX. A Clerk, Engineer, and Treasurer of the County shall be appointed by the Council; and the Clerk and Engineer of the County shall in respect of the Execution of the Duties assigned to the Council of a County have the same Duties, and be subject to the same Responsibilities, and shall give in the same Manner Securities for the due Performance of their Duties, to be approved of by the County Council, as the Clerk and Engineer of a District Council with reference to the Duties assigned to the District Council; and the Treasurer of the County shall be appointed subject to the same Conditions in respect of Securities or otherwise, and be liable to the same Duties and Responsibilities in respect of the County, as the Treasurer of a District in respect of the District.

County Council to complete Grand Jury Collections.

CLXI. The County Council shall ascertain the State of the County and Baronial Collections as existing at the Time of their coming into Office under this Act, and shall have the same Power of enforcing such Collections as Grand Juries of the County or the present County Officers of themselves, or on Presentments by Grand Juries, would but for the passing of this Act have had, and shall allocate the Amounts collected as such Officers by themselves, or on Presentments by Grand Juries, would have been bound to allocate them.

Council to complete Works begun by Grand Juries.

CLXII. In the Case of Works granted on Presentments or a Presentment by any Grand Jury, but not completed at the coming into operation of this Act, they shall be dealt with by the Council in all respects as the present County Officers or any Grand Jury might have dealt with them; and in the Case of outstanding Contracts for the Repair of public Works for the Payment of which no Provision has been made by the present County Officers or by Grand Juries, the Council shall determine the Portion thereof which shall be chargeable to each District, and each District shall thenceforward be liable thereto as a Charge on such District at large; and in the Case of Charges or Incumbrances incurred before the coming into operation of this Act, and affecting the County at large, or any Districts or Parts of Districts thereof, the Council shall allocate the Amount

thereof, in case the Charge shall affect the County at large, among the different Districts as shall seem right, or if the Charge shall affect separate Districts or Parts of Districts only, the Council shall allocate the Amount thereof on such Districts or Parts of Districts, none of such being less than an Electoral Division, as shall seem right; and in all such Cases the Assessment in respect of such Charges shall be made according to the Valuation on which the last Poor Rate was levied.

Duties which would have been imperative on Grand Juries to be imperative on the Council.

CLXIII. The imperative Duties of the Council of a County shall be—

To make Provision in the Manner herein-after provided for the sufficient Maintenance of all existing County Establishments, and for all the Expenses and Charges connected with the Administration of Justice within the County, which have been heretofore provided for by Grand Jury Presentments, or for which it would have been the Duty of a Grand Jury to provide, and to make Provision for all the Charges and Expenses which may be required for the due Performance of the Duties assigned to the Council of a County by this Act:

To maintain in good and sufficient Repair all public Buildings belonging to the County:

To build, rebuild, or repair all Bridges and Causeways, and the Works connected therewith, within the County, in every Case where the Cost in respect of such Bridge, Causeway, or Works, or of the Repairs thereof, shall be estimated to exceed Two hundred Pounds:

Generally to make Provision for all Charges of any Kind or Description for which it would have been the Duty of a Grand Jury of the County to provide, and to cause the Amount thereof to be levied as nearly as may be from the Districts or Divisions of the County which would have been liable in respect of any such Charges if made on Presentment or otherwise by a Grand Jury:

To obey and carry into effect all Orders of the Lord Lieutenant in Council under this Act:

To appoint and assign adequate Salaries to all such competent Persons as may be required under this Act for the Assistance of the Council in the due Performance of their Duties, and to hear and investigate all Complaints which shall be made against any Officer subject to their Controul, and to adjudicate thereon as may appear right, and to inquire into the continuing Solvency of all Persons who may have entered into Security for the Performance of Duty by their Officers:

To

To hear and determine all Appeals from the Decisions of the District Councils, and also all Applications approved of by the District Councils, the final Determination on which is by this Act assigned to the Council of the County:

To hear and cause Investigation to be made in respect of any Complaint made against a District Council by the President of the County in respect of Neglect or Misuse of the Powers and Duties assigned to such District Council by this Act, and to adjudicate thereon; with Power, if their Orders shall be disobeyed by the District Council, to cause such Orders to be executed by their own Officers, at the Charge of the District:

To require their Engineer, in the Spring and Autumn of each Year, to report on the State of Repair of all Bridges and public Buildings within the County, and of all the Main Lines of Communication between the several Towns of the County, and of such other Roads as may have been placed under his Charge, and of all Piers, Jetties, and Landing Places heretofore made or repaired on Presentment by a Grand Jury, or by any Public Board, on any Harbour, navigable River or Canal, and on such Report the Council shall make such Orders thereon as they may deem expedient.

Councils to meet Four Times in the Year.

CLXIV. The Council of each County shall meet *Four* Times in the Year, at such Periods as shall allow at least Days to elapse between the quarterly Meetings of the District Councils in each County and the Meetings of the County Council; but, if they shall think fit, they may determine that Warrants for County Levies shall only be ordered at their Spring and Autumn Meetings, except as herein-after.

Councils to appoint Boards of Superintendence.

CLXV. The Council shall appoint Boards of Superintendence of all County Establishments, and of such Boards Persons not Members of the Council may be Members: Provided always, that the President and Vice-President of the County and the Members of the Executive Committee shall be Members of all County Boards, and such Boards shall have such Powers as the Council shall depute to them.

Discretionary Powers of the Council of the County.

Council may grant Superannuations.

CLXVI. The Council of the County may grant such Superannuations, Rewards, or Compensation connected with the Administration of Justice or the Public Service within the County as they shall deem right; but when any such Grant shall exceed , or when it shall be in the Form of an Annuity, the Decision of the Council of the County shall be approved of by the Lord Lieutenant in Council, otherwise it shall be of no Effect.

Council may erect Buildings required for the Administration of Justice, &c.

CLXVII. The Council of a County shall have Power to hire or purchase Land for the Purpose of erecting and may erect thereon, at the Cost of the County at large, any Building which they shall consider requisite for the Administration of Justice, or the Maintenance of Law and Order within the County, without Reference to the District Councils.

Council may determine what Line of Roads, &c. shall be repaired at the Charge of the County.

CLXVIII. The Council of the County may determine that any main Line of Communication through the County, or any Harbour, Pier, or Landing Place on any Canal or navigable River, shall be repaired or maintained or be improved at the Charge of the County at large.

Council may make new Roads, &c. at the Charge of the County.

CLXIX. The Council of the County may determine on and direct the Formation of new Roads, or the Alteration or Improvement of old Roads, and the Erection of Bridges, Viaducts, and Causeways, and the Works which may be connected therewith, or may be required for their Security, and may also determine on and direct the Formation of Piers, Jetties, Quays, and Landing Places, and cause the Cost thereof to be levied from off the County at large.

Council may redeem Tolls on Roads and Bridges.

CLXX. The Council of the County may redeem, at the Charge of the County at large, Tolls on Roads and Bridges, or may sanction the Redemption of such Tolls by the Councils of Districts.

Council may purchase Tolls of Fairs or Markets, or sanction such Purchase by Districts.

CLXXI. The Council of the County may, with the Consent of the Proprietors of any Tolls or Customs of any Fair or Market within any District of the County, sanction the Purchase of such Tolls or Customs by the Council of such District or by the Governing Body of any City or Town within the the District, and if it shall be proposed to continue the Collection of Tolls and Customs at such Fairs or Markets after such Purchase, the Council of the County may sanction the proposed Appropriation of the Receipts thereof, or may make such other Decision thereon as they shall think right.

Powers and Duties of Councils in respect of private Undertakings which have been sanctioned by the District Councils.

CLXXII. In all Cases where the ultimate Decision on an Application (except on Appeal) has been herein-before assigned to the Council of the County, the Council may sanction absolutely or conditionally, or may reject, any private Undertaking which shall have been approved of by any District Council, and may revise and alter, or sanction conditionally or otherwise, or reject, the Terms or Conditions which shall have been sanctioned in reference to such Undertaking by the District Council, or may depute their Power of Decision thereon to the Executive Committee of the County, or may direct them to make such Inquiries as to them may seem fit; but if the Applicant or any

any District Council shall feel him or itself aggrieved by any such Decision, such Applicant or Council may appeal to the Administrative Council of the Lord Lieutenant, in the Manner herein-after mentioned: Provided always, that when any such private Undertaking shall affect more than Two Districts in the County, or when it is proposed by the Undertakers thereof that a certain Return on the Expenditure should be guaranteed, or that a certain Portion of the Work should be executed by the County at large, or when the President of the County shall be of opinion that the Application is One which affects the general Interests of the County, and shall have assented to the Application being brought in the first instance before the Council of the County, it shall not be requisite that such Undertaking should have been sanctioned by any District Council, but Application may be made in the first instance to the Council of the County in respect thereof, in the same Manner as other Applications to the Council of a County are under the Provisions of this Act required to be made, anything herein-before contained to the contrary notwithstanding; and such Council shall, subject to Appeal to the Administrative Council of the Lord Lieutenant, as herein-before provided, have Power to grant the Application absolutely or conditionally, or to reject it, or may depute their Power of Decision thereon to the Executive Committee of the County, or may direct them to make such Inquiries as to them may seem fit.

Duties of the Executive Committee and of the President of the County in respect of private Undertakings.

CLXXIII. In all Cases contemplated by the previous Clause, where the Undertaking shall have been referred by the County Council to the Executive Committee of the County, whether the Undertaking shall have been previously sanctioned by a District Council, or shall in the first instance have been approved of by the Council of the County, the Executive Committee thereof shall, with the Assistance of the Assessor of the County, to be appointed as herein-after provided, and of the Engineer of the County, cause such Inquiries or local Examinations to be made, by Survey or otherwise, and at the Expense of the Applicants, as shall enable them to decide thereon or report thereon, as the Case may be; and if the Application shall have been originally made to the County Council, the Executive Committee shall report to the Council on the following Particulars:

1. On the Sufficiency of the Plan laid before the Council for the professed Object:
2. On its being the best and most practicable Manner for attaining that Object:
3. On the Ability of the Undertakers to complete the Work; and in case there be Deed or Deeds of Partnership or Settlement in connection with the Undertaking, whether such Deed or Deeds shall have been duly executed by those who are stated to be the Promoters of such Undertaking:

4. On the Amount of Security which shall be required for the Completion of the Work, and the Payment of all Damages, Compensations, or any Costs that may be attendant thereon:
5. On the Term within which the Work shall be completed:
6. On the Tolls or Charges which may be reasonably made by the Promoters of the Undertaking for the Use thereof:
7. On any special Circumstances which may be connected with the Undertaking:

And the Executive Committee shall determine, in all Cases contemplated in the previous Clause, in what Manner due Notice shall be given to all Persons whose Property or Interests may be affected by the Undertaking; and so soon as the Executive Committee shall have completed all such preliminary Inquiries, and shall have reported thereon to the Council, the Council may grant the Application, subject to Appeal, or may grant it subject to such Conditions as it may impose, or may reject it; and if the Application be granted, so soon as the President of the County shall be satisfied that the Security required has been duly entered into, and that all the Requirements of this Act, and all Directions (if any) of the Council or of the Executive Committee, have been duly complied with, he shall have Power to apply to such Undertaking any of the Powers or Provisions of the herein-before recited Acts of One thousand eight hundred and forty-five or One thousand eight hundred and forty-seven as may be applicable to the Case, or as he may consider requisite: Provided always, that in any such Case a Copy of the Application, and of all Plans and Specifications connected therewith, shall, Days at least previous to the Meeting of the County Council, be lodged with the Clerk of the Administrative Council of the Lord Lieutenant; and that any District Council, or One Fourth of the Members of the County Council, may appeal to the Administrative Council against the Undertaking, either Days after it shall have been approved of by the Council; and the Decision of the Administrative Council shall be final thereon, and the Administrative Council shall in such Case determine by whom the Costs of such Appeal shall be paid.

Council, with Consent of District Councils, may execute Works not heretofore presentable by Grand Juries.

CLXXIV. The Council of the County shall have the same Power of executing any Work, or of sanctioning any Undertaking of public Utility, or for the Safety or Convenience of the Public, or for the Promotion of Education, or for the Public Health, or the Maintenance of Law and Order within the County, the Expenses of which, or any any Portion of such Expense, it is proposed to levy from the County at large, as any District Council has under this Act in respect of its District; but where such Work shall be of a kind not heretofore done or executed on Grand Jury Presentment, the proposed Undertaking or Work shall first be submitted to each District Council within the County;

County; and if a Majority of the entire Number of Councils within the County (or in case of Equality a Majority in Value according to the Valuation of the District) shall disapprove of such Work or Undertaking, it shall not be proceeded with by the Council; but if a Majority as aforesaid shall approve of the Work, any District Council may, notwithstanding, appeal to the Lord Lieutenant and Council against it, and their Decision thereon shall be final and conclusive.

Council to require Security for the Execution of private Undertakings.

CLXXV. The Council of the County shall in all Cases of Undertakings by Individuals, whether in respect of Works undertaken in Districts or of Works affecting the County at large, require such Security as they shall deem to be sufficient to be given for the due Execution of the Work or the Performance of the Undertaking, and the Payment of all Expenses in relation thereto, and the Payment of all Costs and Compensations or Damages as may be awarded by any Jury or other competent Authority under this Act, or under any of the herein-before recited Acts of One thousand eight hundred and forty-five or One thousand eight hundred and forty-seven, which the Council under this Act have Power to bring into operation within the County; but if the President shall deem the Amount of Security so determined on by the Council to be insufficient, the Question shall be referred to the Lord Lieutenant, whose Determination therein shall be final.

Council may sanction Byelaws in respect of private Undertakings.

CLXXVI. The Council shall have Power to sanction Byelaws which may be required for the Management or Preservation of their Works by any Company of Undertakers whose Undertaking shall have been sanctioned by the Council or by any District Council, and for which Provision shall not be made in the Acts herein-before recited of One thousand eight hundred and forty-five or One thousand eight hundred and forty-seven, with Power to impose Penalties not exceeding , or in default of Payment Imprisonment for not more than Days, for any Infraction of such Byelaw, either by the Servants of the Undertakers, or by others who shall be held by the Magistrate or Magistrates who may try the Case to have knowingly and wilfully disobeyed such Byelaws: Provided,

1st. That no such Byelaws shall be submitted to the Council unless they shall previously have been approved of by the President:

2d. That no such Byelaws shall be brought under the Consideration of the President without previous Publication:

3d. That nothing therein contained shall be contrary to any Law of the Realm:

4th. That no such Byelaws shall be acted on or be carried into effect by any Magistrate or other Person until they shall have

been signed by the President, and been promulgated as hereinafter directed:

And in all Cases the Council may depute to the Executive Committee, subject to the Consent of the President, the Power to sanction or alter or reject all or any of such Byelaws.

Mode of Proceeding of Council and Executive Committee.

CLXXVII. The Mode of Procedure by the Council of the County and its Officers, and also of the Executive Committee, shall be the same as that herein-before prescribed for the Guidance of the Councils of Districts and their Officers and Executive Committees, so far as is practicable, and as is consistent with the following Rules:

1st. Where any Application shall be made for a Work to be executed at the Expense of the County at large, if it be approved of at the First Meeting of the Council it shall be referred to the Executive Committee, to obtain conditional Contracts for its Execution, but it shall not be finally granted until a subsequent Meeting of the Council:

2d. In Cases of Application to the Council for its Sanction for any Work which has been approved of by a District Council, or in case of Appeal against the Decision of a District Council, the Decision of the County Council thereon shall be final, unless where it is otherwise provided by this Act; and in all Cases the Council may, if it consider that further Inquiry is necessary, postpone its Decision, or depute to its Executive Committee, either to have such further Inquiries made, and to report to the County Council thereon, or to decide the Question in the Name and with the Authority of the Council:

3. All Claims for Payment against the Council, and all Estimates for future Expenses, shall be brought before the Council by the Clerk in the Form of Applications, and shall be inserted by him in the List of Applications to be brought before the Council; and all Claims for Payment, and all such Estimates, when so brought before the Council, may be granted by it at once, or may be referred to the Executive Committee, with Power to order Payment.

Day to be appointed for hearing Appeals or Complaints.

CLXXVIII. The Council shall appoint a Day on which Appeals shall be heard, and such Appeals shall be proceeded with in the Order in which they stand in the published List of Applications, but on sufficient Cause being shown a different Order may be followed; and if the Council shall think fit to order any further or more special Investigation to be made by their own Officers, they may either postpone their Decision until their next Meeting, or, with the Consent of the Parties, depute to the Executive Committee the Power of giving a fi na

final Decision in the Name of the Council; and all Complaints against District Councils for Neglect or Misuse of their Duties or Powers shall be heard as Appeals, and the Council may proceed thereon as in respect of Appeals; and if the Council or the Executive Committee shall consider a Complaint to be well founded, they may make such Order as the Justice of the Case may seem to require; and if such Order be not obeyed by the District Council, the Complainant may again lodge a Complaint in the same Form and under the same Restriction in respect of Security as the first Complaint; and if such last Complaint shall be established, the Council may direct their own Officers to execute their Orders, and may cause the Amount expended by them to be included in the next Warrant to the Treasurer of the District in the Manner herein-after directed.

Mode of Application to the Council to be same as that to the District Council.

CLXXIX. Application shall be made to the Council of a County in the same Manner and at the same Period in reference to its Time of Meeting as to a District Council, and all the Rules which have been herein-before prescribed for the Guidance of the Clerk of the District shall, in reference to their Distribution to the Members of the County Council, and to their Publication, and to the Publication of the Decisions of the Council, and in obtaining Contracts for Works, and in all other respects, be followed as nearly as the Case admits of by the Clerk of the Council of the County.

Mode of proceeding where the ultimate Decision on an Application rests with the County Council.

CLXXX. In respect of Applications which shall have been approved of by any District Council, but which require the Sanction of the County Council, the Mode of Proceeding shall be as follows: So soon as the Application shall have been approved of by the District Council, if it be proposed to levy the Cost thereof from the District or any Portion thereof, the Executive Committee of the District shall proceed to obtain Provisional Contracts as in Cases not requiring the Sanction of the County Council; and so soon as a Provisional Contract shall have been entered into, or if in default of a satisfactory Contract being obtained the Committee shall have directed their Engineer to frame an Estimate of the probable Cost of the Work as herein-before provided, such Contract or Estimate shall, together with the Application, and all Maps and Plans connected therewith, and a Copy of the Decision of the District Council thereon, be forthwith forwarded by the Clerk of the District Council to the Clerk of the County Council.

When such Applications are to be lodged.

CLXXXI. No Application requiring such Approval shall be brought before the County Council for its Sanction unless such Application shall, together with all Maps and Plans connected therewith,

with, have been lodged in the Office of the County before the Meeting of the County Council. Days

When Security for any private Undertaking shall not have been lodged as required.

CLXXXII. In all Cases of private Undertaking where any Deposit of Money or Security is required under the Provisions of this Act, and where such Deposit or Security shall not have been made or completed at the Time of the Application being lodged in the Council Office, the Days herein-before required shall be counted only from the Day on which such Deposit of Money shall have been made, or such Security shall have been completed.

Local or other Inquiries to be made at the Expense of the District or Applicant.

CLXXXIII. All such Applications shall be dealt with by the Executive Committee of the County Council as other Applications under this Act are directed to be dealt with, and all such local or other Inquiries shall be made at the Expense of the District or of the Applicant as the Committee may think right, or as the President of the County, in case of private Undertakings, may require, as hereinafter provided.

President may postpone the Consideration of an Application for further Inquiry.

CLXXXIV. If at the Time of Meeting of the Council the Executive Committee or the President shall consider that sufficient Inquiries or Investigations have not yet been made, either in respect of the Merits of the Application or in respect of the Interests affected thereby, they or he may direct that the Consideration of the Application shall be postponed until the ensuing Meeting of the Council, or the Council may decide that the Consideration of the Application shall be postponed until their next Meeting, or may sanction or reject it, or make such Order in respect of it as shall be deemed expedient.

The Execution of the Works approved of rests with the District Council.

CLXXXV. When the Council of the County shall have finally sanctioned any such Application as aforesaid and if within *Seven* Days from such Sanction having been declared no Appeal against it shall have been lodged, and the Work proposed is to be executed at the Expense of the District which shall have approved of such Work, the Application and the several Documents connected therewith, with the Decision of the Council thereon, shall be forwarded to the Clerk of the District Council, and the Executive Committee thereof shall proceed in respect of the Execution of the Work as in other Cases of District Works.

The Order of the President required for the Commencement

CLXXXVI. If the Application so sanctioned shall be for a private Undertaking, and no Appeal shall within Seven Days from such Sanction having been declared have been lodged against it, the President of the County shall issue such Order in respect of the Com-

Commencement of the Work, or the carrying into effect any Orders or Conditions which the Council may have attached thereto, as he shall think right. of any private Undertaking.

In respect of the financial Affairs of Counties, be it enacted,

CLXXXVII. That the Executive Committee, or in its Default the Clerk, shall lay before the Council at each of its Quarterly Meetings a financial Statement with reference to the Affairs of the County similar to that required to be laid before the District Councils with reference to the Affairs of the District, and before the Termination of the Meeting of the Council the Executive Committee or the Clerk shall propose the Amount of Rate to be levied for the next *Six* Months to meet all existing Claims against the Council for which Provision has not been made, as well as to meet the probable Expenditure for the Period: Provided always, that in case of any sudden Emergency an extraordinary Rate may be proposed at either of the other Meetings of the Council. Financial Statement to be laid before the Council by the Committee.

CLXXXVIII. The Council shall determine the Amount which shall be levied, and may include such Sum as may seem reasonable to meet Contingencies. The Council determines the Amount which shall be levied.

CLXXXIX. The Executive Committee, or, in their Default, the Clerk, shall within *Ten* Days after the Termination of the Council applot the Sum required over the several Districts of the County according to their last Valuation; and if any separate Charge shall be determined on by the Council to be added to the general Charge against any particular District or Division, or if any District or Division shall in the Opinion of the Council be entitled to claim Exemption from any Part of the general Charge, the Committee shall make their Applotment accordingly. The Committee applots the Amount required over the separate Districts.

CXC. The Executive Committee, or in their Default the Clerk of the Council, shall, within Twenty Days after the Meeting of the Council at which such financial Statement has been adopted, cause to be delivered to the Clerk of every District Council within the County a Copy of the financial Statement so laid before and adopted by the Council, and of the Applotment made in respect thereof, and shall also within the same Period cause another Copy thereof to be delivered to the Auditor of the County, together with all the necessary Vouchers for all Payments that have been made; and if the Auditor of the County shall feel dissatisfied with any Item in the Accounts, or if any District Council, or the Executive Committee thereof, shall feel dissatisfied with such Statement or Applotment, or by the Determination of the Council thereon, he or they may appeal within Notice to be given to the several Districts of the Amount they are required to pay.

within *Twenty* Days after the Receipt of such Copies to the President of the County, who may cause any Alterations to be made in the Statement or the Applotment which the Justice of the Case may require, and if it be necessary may order a new Applotment to be made so soon as such Applotment shall be finally determined on.

Warrants to be issued to the several District Councils requiring them to raise the Amount applotted.

CXCI. The Chairman of the County, or in his Absence the Deputy Chairman, and Two Members of the Executive Committee, shall sign Warrants to the several District Councils within the County, requiring them to raise within their Districts and pay to the County Treasurer the Amount required, within a Term specified in the Warrant, not being less than *Three* Months from the Date of the Warrant; and the Clerk of the County Council shall countersign such Warrants, and shall cause them to be delivered to the Clerks of the several District Councils; and Copies of such Warrants shall be delivered to the Treasurers of the several District Councils, with Notices, signed and countersigned as aforesaid, requiring them respectively at the Time specified, and thenceforward until the Amount required shall have been paid, to transfer to the County Treasurer all Money which shall then be in their Hands to the Credit of their several Districts, or any Money which they may from Time to Time receive on account of their Districts respectively; and if the Treasurer of any District shall act in contravention of such Order he shall be liable for the Amount he shall have received or have paid away otherwise than in obedience to the County Warrant so delivered to him; and if any District Council shall refuse or neglect to obey the Warrant so delivered to the Clerk of such Council, and to collect the Amount required, the Council of the County, or (if they shall have been authorized to do so by the Council) the Executive Committee, may themselves appoint Collectors for such District, and may issue Warrants for the Collection by them within the District of the Amount required, and of the probable Cost of such Collection; or the Council of the County may apply to the Superior Courts, in the Manner herein-after provided, for a compulsory Order to such District Council to collect the Amount required.

And in respect of Appeals from the Decision of the County Council, be it enacted,—

The Deputies of any District may appeal to the Administrative Council from the Decision of the County Council.

CXCII. That the Deputies of any District, or the Majority of them if there be more than Two, may appeal to the Administrative Council of the Lord Lieutenant against any Decision of the County Council, on giving Notice thereof to the Clerk within *Seven* Days after the Termination of the Meeting at which the Decision appealed against has been given; and if the Appellants fail in obtaining the Decision of the Council to be reversed, all the Costs and Expenses

Expenses of such Appeal shall be borne by the District of which the Appellants may be the Deputies; and if the Decision of the Administrative Council shall be in favour of such Appellants, their Costs and Expenses shall be paid by the Treasurer of the County, on the Order of the Administrative Council; and the District of the Appellant Deputies shall be exempted from so much of the general Rate of the County as the Costs and Expenses of all Parties shall amount to, and the Rates of the other Districts of the County shall be increased in proportion.

One Fourth of the Council may appeal.

CXCIV. *One Fourth* of the entire Number of any County Council may appeal to the Administrative Council against any Decision of such County Council, and in such Case all the Costs incurred shall be borne by the County at large.

Any Individual on giving Security for Costs may appeal.

CXCV. Any Individual aggrieved by a final Decision of the Council of a County may appeal against such Decision to the Administrative Council within the like Period of *Seven* Days, but in all Cases he shall first sign an Undertaking, as well as give valid Security in the Sum of , to prosecute the Appeal, and to pay all Costs and Expenses which may be given against him by the Adminstrative Council, and also any Sum not exceeding *Pounds* which may be imposed on him by the Council if his Appeal be declared by it to be frivolous and vexatious.

Parties having Claims against the County Council may appeal to Courts of Justice.

CXCVI. In any Case where a Party having a Claim against a County shall be dissatisfied with the Decision of the Council in respect of such Claim, the Party so dissatisfied may in like Manner appeal against such Decision, either at the next Assizes or the next Quarter Sessions, according to the Amount of the Claim, as hereinbefore provided; and such Party shall not be required to give any Undertaking or Security for the Prosecution of his Appeal: And all Notices of Appeal shall contain a short Statement of the Grounds on which the Appellant relies, and he shall be confined to such Grounds, and shall not be allowed on the Trial to bring forward any other Grounds of Appeal.

How Appeals are to be entered into.

CXCVII. In all Cases of Appeal the Clerk may require satisfactory Evidence to be given in respect of the Solvency of the Security tendered: Provided always, that if the Undertaking be signed, and the Security be entered into in the proper Form, before any Two Magistrates of the County, who shall at the same Time certify their Knowledge of the Parties signing, and their Belief in their Solvency, the Undertaking and Security so entered into shall be sufficient if lodged with the Clerk within the Time specified.

Forms of Appeal are to be furnished by the Clerk.

CXCVIII. Any Person intending to appeal may, on Tender of the Sum of *One Shilling*, require the Clerk to supply him with the necessary Forms of the Undertaking and of the Bond; and the Undertaking may be signed and the Bond executed either in the Presence of Two Magistrates as aforesaid, or in the Presence of the Clerk of the Council; and the Clerk shall, within *Fifteen* Days after the Session, publish in One or more Newspapers circulating within the County (as determined by the Council) a List of all the Decisions of the Council against which Appeals have been perfected.

The President of the County, and Officers connected with the Duties of the President.

Councils of Counties to submit to the Lord Lieutenant Lists of Persons recommended for the Offices of President and Vice President.

CXCIX. In respect of the due Execution of the Provisions of this Act, and the Protection of public and private Interests, be it enacted, That the Lord Lieutenant shall select a President and a Vice-President for every County in the Manner following:

So soon as each County Council shall be formed, they shall prepare a List of *Five* Persons resident within the County whom they recommend for the Office of President, and a Second List of Five Persons so resident for the Office of Vice-President of the County; and he may object to all or any of such Names, and may, if he shall assign Motives for his Objection, continue to object to the Lists submitted to him until he shall be satisfied therewith.

Lord Lieutenant to select from such Lists.

CC. From the Lists so supplied he shall select One Person to be President and another Person to be Vice-President of each County; and such President and Vice-President shall hold Office during the Pleasure of the Lord Lieutenant; and if either be dismissed or shall resign, his Name shall not, except with the Consent of the Lord Lieutenant, be inserted in the new Lists to be supplied by the Council from which his Successor is to be selected.

Salaries to be assigned to each.

CCI. The Lord Lieutenant shall assign a Salary to each President of a County, not exceeding *Five hundred Pounds* per Annum nor less than *Two hundred and fifty Pounds*, in proportion to the Extent and Number of the Districts which shall be under his Charge, and also a Salary not exceeding *Three hundred Pounds* nor less than *One hundred and fifty Pounds* to each Vice-President.

President and Vice President not to be both absent from the County at the same Time.

CCII. The President and Vice-President of a County shall at no Time be both together absent therefrom, nor shall either be absent from the County without the Permission of the Lord Lieutenant; and the Vice-President shall be bound to do any Act or Duty connected with the Administration of this Act which shall have been deputed to him by the President.

CCIII. The

Assessor of the Courts to be appointed.

CCIII. The Lord Lieutenant shall, from a List of Seven Barristers of not less than *Seven* Years standing at the Bar to be submitted to him by the Council (but subject to Objection as herein-before provided with respect to Lists of Persons for the Office of President and Vice-President of a County) select One Person to be the Assessor of each County, who shall be the legal Adviser of the President and of the several Councils within the County in respect of the Execution of this Act, and who shall hold Office during the Pleasure of the Lord Lieutenant, or until *Three Fourths* of the entire Council of the County shall have determined on his Removal, and petitioned the Lord Lieutenant to that Effect; and a Salary shall be assigned to each Assessor by the Lord Lieutenant varying from *One hundred and fifty Pounds* to *Three hundred Pounds* per Annum, according to the Extent and Number of Districts within the County, and in addition to the Fees herein-after provided for such Assessors in respect of the Duties to be performed by them.

Also Solicitor.

CCIV. The President of the County may also select a Solicitor resident within the County, who, when approved of by the Council, shall be the Solicitor of the County, who shall be paid, out of the Fees payable by Applicants or out of the County Levies, such Salary or Remuneration as the Council shall determine.

Also a Secretary to the President, and an Auditor of the County Accounts.

CCV. The President shall appoint a competent Person to act as his Secretary, to whom a Salary shall be assigned by the Lord Lieutenant varying from *Eighty Pounds* to *One hundred and fifty Pounds* per Annum, according to the Extent and Number of Districts within the County; he shall also appoint an Auditor of the Accounts of the County Council, and of the several District Councils within the County, to whom either a Salary not exceeding *One hundred Pounds* per Annum nor less than *Fifty Pounds*, as shall be determined by the Lord Lieutenant, shall be paid by the Council of the County, or, if so determined by the Lord Lieutenant, a Per-centage on the Amount audited, not exceeding the Amount now levied for the Audit of County Accounts; and such Auditor may be removed by Order of the Lord Lieutenant or of the President.

Expenses of the President's Office.

CCVI. The Lord Lieutenant may also assign to the President such Sum as he shall think fit for the reasonable and necessary Expenses of an Office, which shall be called the President's Office, and for Clerks, Stationery, and other Office Expenses; and the Office shall be held in such Place within the County as the President, with the Approval of the Council, shall select.

The several Salaries and Allowances which shall have been assigned as aforesaid by the Lord Lieutenant shall be paid by the Commissioners of Her Majesty's Treasury at the same Periods and in like Manner as other Civil Services under the Crown in Ireland are paid out of any Funds appropriated by Parliament for the Purpose; but in consideration thereof be it enacted, That—

All Applications to any of the Councils to be on stamped Paper.

CCVII. All Applications made to any Council or Committee of Management, and all Contracts entered into with and Bonds given to a Council, shall be written on Paper stamped with such Stamp, or with such Stamp affixed thereto, as shall be requisite according to the Schedule to this Act annexed; and no other Stamp shall be required for any such Documents, notwithstanding any Statute now in force relating to Stamp Duties.

The Stamp Office to cause separate Stamps to be made.

CCVIII. The proper Officers of the Stamp Department shall cause separate and peculiar Stamps to be made for County Purposes, and shall direct them to be sold by all Persons who are authorized to sell Stamps for other Purposes; and all such Penalties as attach to the Forgery of Postage or other Stamps shall apply to the Forgery of any Stamp so issued.

Clerk of Councils to be responsible for the Stampsbeing real.

CCIX. If any Clerk of a Council shall bring under the Consideration of the Council any Document not duly stamped, or if any such Clerk shall countersign any Document containing any Contract or Decision of the Council without the proper Stamp being thereon or attached thereto, or if he shall neglect to cancel such Stamp when such ought to be cancelled, either by stamping it with the Seal of the Council or otherwise, or if he shall permit to be used on any new Application a Stamp which shall have been previously cancelled, such Clerk shall be subject to a Penalty of Fifty Pounds.

Separate Account of County Stamps to be kept.

CCX. A separate Account of the Stamps so issued shall be kept, and if at the End of Two Years it shall be found that the Value of such Stamps shall exceed One Half of the Amount of Salaries and Allowances assigned under this Act by the Lord Lieutenant, it shall be lawful for him, with the Consent of the Commissioners of Her Majesty's Treasury, either to reduce the Amount of the Stamps required by this Act, or to exempt from the Necessity of being stamped any Class of Documents for which a Stamp is required by this Act; and Notice of such Reduction or Exemption having been given by Publication in the Dublin Gazette, all Documents hereby required to be stamped shall thenceforward be stamped only as required in such Notice.

CCXI. In

President responsible for the Execution of this Act within his County.

CCXI. In respect of the Duties of the President and Vice-President of a County, the President (or in his authorized Absence the Vice-President) shall be responsible for the proper Execution of this Act within his County, and it shall be his Duty to see that no Order is made or Act done by any Council within his County which shall be contrary to the Laws of the Realm, or which he shall deem to be injurious to the Public Interests.

The President may suspend the Orders of any Council within the County.

CCXII. If he shall consider any Act or Order of a Council to be contrary to the Laws of the Realm or to the Public Weal, he may Order it to be suspended for *Twenty-one* Days, in order that it may be referred to the Lord Lieutenant, who, if he thinks fit, may still further suspend it for *Twenty-one* Days, in order that it may be considered by the Administrative Council, whose Decision thereon shall be final and conclusive.

President responsible for the Audit of County Accounts.

CCXIII. The President shall be responsible for the Acts of his Secretary, and also for the proper Audit of the Accounts of the several Councils and Committees of Management within the County, and may disallow any Item contained in such Accounts, if he shall consider that any Payment has been made without sufficient Authority; with Power, nevertheless, to any Council or Committee of Management to appeal to the Administrative Council of the Lord Lieutenant against his Decision; and in case of final Disallowance of any Payment, those who signed the Order, and the Clerk who countersigned it, shall be responsible to the Treasurer for its Repayment.

President may cause Complaints made against District Councils to be investigated by County Council.

CCXIV. If any Complaint shall be made to the President against any District Council or Committee of Management of a Division, either in respect of its Neglect of Duty or Misuse of its Powers, he may require the Chairman of the District or of the Division, or the Engineer or other Officer of the District or Division, as the Case may require, to report thereon; and if the President shall think fit to do so, he may bring the Complaint under the Consideration of the Council of the County, who may make such Decision thereon as the Nature of the Case may require, and as if an Appeal had been lodged in the Manner herein-before set forth against any Decision of a District Council or Committee of Management; or the President may bring the Complaint under the Consideration of the Executive Committee of the Council of the County, which shall have Power to order such local Inquiries to be made by the Engineer or other Officer of the County, or by such Persons as such Committee shall depute thereto, as they may think fit; and such Committee may bring the Case before the Council, to be dealt with

by them, or may decide thereon summarily, as the Justice of the Case may require; and the Council, with the Consent of the President, may order all the Costs and Expenses of such Inquiries to be charged against the District or Division complained against; subject always to any Right herein-before given of Appeal from the Decision of the County Council to the Administrative Council of the Lord Lieutenant.

President may refer Complaints against District Council to the Administrative Council.

CCXV. If any Complaint shall be made to the President against the Council of the County, in respect of Neglect of Duty or Misuse of Powers, or if the President shall be of opinion that it has neglected its Duties or misused its Powers, he may bring the Subject under the Consideration of the Lord Lieutenant, who, with the Consent of the Administrative Council, may make such Order thereupon as the Justice of the Case may require.

President to keep all Securities.

CCXVI. The President of each County shall receive and keep the several Securities entered into by the Clerks, Engineers, Treasurers, and other Officers, as well of the County as of the several Districts within the County, and shall allow such Securities to be inspected by any Ratepayer, when reasonably required so to do, and once at least in every Year he shall require from the Chairman of each Council a Report on the continued Sufficiency of the Securities, and, if necessary, he may require that new Securities shall be given.

Copies of Proceedings of all Councils are to be forwarded to the President.

CCXVII. A Copy of the Proceedings of every Council and Committee of Management, and of every Executive Committee where final Power of Decision on any Application has been deputed to it by the Council, shall be forwarded by the several Clerks of the Councils or Committees of Management within a County to the President of the County within *Three* Days after the Meeting of the Council or of the Committee; and if the President shall think fit, in virtue of the Power herein-before given to him, to suspend the Execution of any Order of a Council or Committee of Management, a Notification of such Suspension shall be forwarded by him to such Council or Committee of Management within *Seven* Days after the Receipt of such Copy as aforesaid.

President may authorize recourse to the Provisions of certain Acts in respect of Public Works.

CCXVIII. If any Work or Undertaking for the Execution of which heretofore Provision could not have been made by the Presentment of a Grand Jury shall have been determined on by any Council, whether of a County or District or by a Committee of Management, and shall have received its final Sanction in the Manner herein-before provided, the President of the County shall have Power, by Warrant under his Hand, to authorize such Council to have recourse to such of the Provisions

visions of the "Lands Clauses Consolidation Act, 1845," or the "Railway Clauses Consolidation Act, 1845," in respect of the Purchase of Land or Materials for the Building, and in respect of the Payment of Damages and Compensation, and such other of the Provisions thereof as shall be applicable to such Work or Undertaking, and as such President shall cause to be inserted by such Warrant; and such Warrant shall be countersigned by the Assessor of the County, and Notice of such Warrant having been signed, and of its general Provisions, shall be published in One or more Newspapers circulating within the County, and all Persons shall thereupon be bound to obey and observe the Requirements of such Warrant in all respects; and if in any Case a Dispute shall arise as to a Claim for or the Distribution of any Sum to be awarded by way of Damages or Compensation through or by reason of the carrying into effect of such Warrant, or of the Proceedings of the said Acts thereby applied to the said Work or Undertaking, such Dispute may, with the Consent of the Parties, be determined by the President, with the Advice of the Assessor, or if the Parties or either of them shall so desire, or if the President shall think that the Dispute ought to be so determined, the Dispute shall be determined in the Manner by the said Acts or either of them (as the Case may be) provided for the Settlement of Disputes with respect to Damages or Compensation.

Also in respect of private Undertakings.

CCXIX. And in respect of any private Undertaking, so soon as it shall have received such final Sanction, either of a County or District Council, as is required under the Provisions of this Act, the President of the County within which such Undertaking is to be executed shall have the like Power, but subject to the like Restrictions, as in Cases of County or District Works, of authorizing the Undertaker or Undertakers to avail him or themselves of the Provisions of the Lands Clauses Consolidation Act, 1845, or of the "Railways Clauses Consolidation Act, 1845," in respect of the Purchase of Lands and the Payment of Compensation, or in respect of any other Matter contained therein, and also of so much of the several above-mentioned Acts of One thousand eight hundred and forty-seven as the Case may require or as may be applicable.

All Byelaws are to be submitted to the Lord Lieutenant before Promulgation.

CCXX. In all Cases where the Sanction of the President is applied for in respect of Byelaws or Regulations made under the Provisions of this Act, he shall, previous to his sanctioning or giving Promulgation to them, submit them to the Lord Lieutenant, and sanction and promulgate only so much of them as he shall receive the Authority of the Lord Lieutenant to sanction and promulgate.

The President is responsible for the Completion of Securities required in respect to private Undertakings.

CCXXI. If any Council shall have sanctioned any private Undertaking, and shall have required Security to be given for the Execution of the Work, or for the Payment of any Costs, Damages, or Compensation incident thereto, and shall have determined the Amount of such Security, and shall have approved of the Names of the Sureties offered, the President shall be responsible for the proper Completion of the Security, and for its Preservation, and Production when duly required; or, when the Council shall have sanctioned the Undertaking, but shall not have determined the Amount of the Security to be given, the Council may depute to the Executive Committee to determine, with the Assent of the President, the Amount of Security which shall be given, and to approve of the Names of the Sureties which may be offered; and when the Security shall have been completed, the President shall, as in the former Case, be responsible for its Preservation, and Production when duly required.

In Cases of private Undertakings local Inquiries may be ordered by the President, with Advice of Executive Committee.

CCXXII. In all Cases of private Undertakings which are by this Act required to be submitted either finally or in the first instance to the Council of the County, for its Approval, the President of the County shall, if the Undertaking shall have been approved of by a District Council, within *Fifteen* Days after the Application has been lodged in the County Office, or within a like Period after the First Decision of the County Council thereon, advise with the Assessor or Engineer of the County, as the Nature of the Application may require, and determine the Amount of Money which shall be lodged by the Applicant with the Treasurer of the County for the Payment of the preliminary Expenses connected with such Undertaking which may be incurred; and the President shall convene the Executive Committee of the County, and may, with their Advice, order such local Inquiries or Surveys or Examinations of the Locality affected by the Undertaking, and such Investigation in respect of the Interests of Individuals affected by it, as he shall consider requisite, and by such Persons as he shall depute thereto; and all such Inquiries shall be made at the Expense of the Applicant, and may be paid for out of any Money lodged as aforesaid by such Applicant with the Treasurer; and so soon as such Inquiries or Surveys shall have been completed the President shall lay the Result thereof, and an Account of the Expenses incurred thereby, before the Executive Committee, which shall report thereon to the Council as it shall think right: Provided always, that if in any Case the Money which the President shall, under the Provisions of this Act, require to be lodged with the Treasurer for the Payment of preliminary Expenses be not paid within the Time specified by him, or if in any Case the requisite Security be not given, all further Proceedings in respect of the Application shall be suspended.

CCXXIII. If

If Executive Committee does not meet at Time appointed President may act alone.

CCXXIII. If the Executive Committee of a County shall be convened as aforesaid by the President, and if within *One Hour* after the Time appointed by the President for the Meeting of such Committee, of which he shall give due Notice to the Members thereof, Two Members of such Committee at least shall not be present, or if Two Members shall be present, and shall disagree, the President may act in the Matter on his own Authority; and any Report or Order he may make or issue in respect of such Matter shall have the same Authority as if he had made or issued it with the Consent of a full Meeting of the Committee convened as aforesaid.

In certain Cases of private Undertaking President may determine the Amount which shall be lodged for the Payment of preliminary Expenses.

CCXXIV. In all Cases of private Undertaking, where the Consent thereto of the Council of the County shall not be necessary, under this Act, the President shall, so soon as the Application shall have been forwarded to him, after the Approval of the District Council which may be necessary under this Act, with the Advice of the Assessor or of the Engineer of the County, determine the Sum which shall be lodged by the Undertaker or Undertakers with the Treasurer of the County for the Payment of preliminary Inquiries, as herein-before; and the President may, at the Expense of the Applicants, direct such Examinations to be made as to the Correctness of the Plans, and the probable Advantage of the Undertaking, and also such Inquiries in respect of the private Interests which may be affected by it, as he may think right, and by such Persons as he may depute thereto; and he may, with the Advice of the Assessor, require that such Notice of the Application shall be given to Parties whose Interest may be affected thereby, as he shall think fit; and he may require Searches to be made in any Office of Registration, and the Production of any Papers and Documents, or sufficient Copies thereof, which may be necessary for the Proof of the Title of any Persons who may allege that they will be affected by such Undertaking; and he may sanction such Alterations of the Plans as may be requested by Parties interested, and which he shall consider reasonable and just; and in any Case, if the President shall have Reason to believe that the District Council which has approved of such Undertaking has been misled, either through the Incorrectness of the Plans, or in respect of any Statement laid before such Council, he may direct that the Application shall be reconsidered by such Council; and if he shall consider that the Interests of the Public or of the County at large, or of Districts other than that which shall have sanctioned such Undertaking may be materially affected by the Application, he shall have Power to convene the Executive Committee of the County, to consider the Application, and such Executive Committee may in such Case appeal against the Application, in the Name of the Council of the County, to the Lord Lieutenant n Council, whose Decision thereon shall be final.

President may appoint Arbitrator in certain Cases of Commutation.

CCXXV. If in any Case it shall be proposed, under this Act, to redeem or commute any Rights of Common, Pasture, Water, Limestone, or other Rights or Easements, the President of the County may, at the Expense of the Applicant, appoint an Arbitrator to ascertain the Value of the Right or Rights proposed to be commuted, and to ascertain in what Manner such Rights may best be redeemed or commuted, or, with the Advice of the Assessor, the President may determine thereon as he shall think right: Provided always, that if the Parties whose Rights shall be so proposed to be redeemed or commuted shall be dissatisfied with the Decision of the Arbitrator or of the President, and shall desire to appeal against such Decision, the President shall direct the Assessor to prepare One or more Issues as may best raise the Grounds of such Appeal, whether they be in respect of Amount of Compensation or otherwise, and such Issue or Issues shall be tried and determined on by the Judges of Assize, or by the Assistant Barrister of the County, with the Assistance of a Jury, or without such Assistance, if the Parties shall so agree; and the Decision of the Court in such Case shall be final, and the Costs connected with all the Proceedings shall be in the Discretion of the Court.

President may direct local Inquiries in respect of proposed Byelaws.

CCXXVI. In the Case of any Application for the Sanction of Byelaws under this Act, the President may order such local Inquiries as as he shall think proper, and shall submit the proposed Byelaws, and the Result of the Inquiries, to the Lord Lieutenant, and shall only Sanction so much thereof as shall have been sanctioned by the Lord Lieutenant.

Money lodged for preliminary Inquiries how to be drawn.

CCXXVII. All Money lodged with the Treasurer of the County under the Provisions of this Act, in respect of any Application which is to be submitted to a County Council, shall be placed to the Credit of the President and Council of the County, and may be drawn by Orders signed by the President and Chairman of the County, or in his Absence by the President and Vice-Chairman, or by the President and Two Members of the Executive Committee of the County, and such Order shall be countersigned by the Secretary of the President; and all Money lodged in respect of any Application which does not require the Assent of the County Council shall be lodged with the Treasurer to the Credit of the President alone, and may be drawn by Orders signed by the President and countersigned by his Secretary; and every such Order shall specify the Application in respect of which such Order is issued, and the Name of the Person to whom the Amount is to be paid.

No Money to be borrowed by

CCXXVIII. No Money shall be borrowed by any Council or Committee of Management under the Provisions of this Act, except with the

the Consent of the President, who shall be responsible for the Amount borrowed not exceeding the Amount permitted to be borrowed by this Act, and who shall see that the Requirements of this Act in respect of the Repayment of the Principal Sum borrowed, with Interest, are observed; and the President may in all Cases object to the Rate of Interest proposed.

any Council without Assent of President.

CCXXIX. All Warrants signed by the President of any County, all Documents signed by him purporting to be final Decisions on any Subjects, and all Byelaws and Regulations which shall have received his Sanction, shall be engrossed in duplicate; and in every Case both Copies shall be signed by him, and, where herein-before required, shall be countersigned by the Assessor and Clerk of the Council of the County; and One of such Copies shall be registered and kept for public Inspection in the Office of the Clerk of the Peace of the County; and in case of any Discrepancy between such Copies, the Copy so lodged in the Office of the Clerk of the Peace shall be held to be the true Warrant or Document or Copy of the Byelaws, with Power, nevertheless, to the President to correct any Error which may appear in the Copy so lodged and registered; and the Clerk of the Peace shall keep all Documents connected with the same Application together, and he shall make an Index thereof, and all Documents registered shall be entered in the Index relating thereto within *Twenty-four* Hours after their being received by him, and he shall classify the Applications, and shall enter under the Heading of each Application all Documents registered which may be connected therewith, and a separate Index shall be kept by him for the County and for each District within the County.

Warrants signed by President shall be in duplicate; the Copy lodged with the Clerk of the Peace shall be the authentic Copy.

CCXXX. The President of the County shall cause a Copy of all Documents signed by him which shall have the Effect of a Demise or Transfer of Lands or other Real Property to be registered in the Office for the Registration of Deeds in Dublin, and a Copy thereof shall also be lodged in the Office of the Clerk of the Peace for the County, which shall be registered by him in the Manner aforesaid.

President to cause certain Documents to be registered.

CCXXXI. The President may authorize any Person whom he shall have deputed to hold any local Inquiry to summon Witnesses before him, and also to require the Production of Papers or Documents that may be necessary, and to administer an Oath to any Person summoned as a Witness before him; and any Person neglecting or refusing to attend or to give Evidence, or who shall give false Evidence, on any such Inquiry, shall be subject to all the Penalties to which a Person refusing or neglecting to attend before a Court of Justice when legally summoned, or refusing to give Evidence, or giving false

Powers which the Treasurer can depute in respect of local Inquiries.

Evidence, before such Court, as the Case may be, may be subject: Provided always, that no Person shall be required to attend at any Place more than Miles distant from his Place of Residence, or the Place where he may be residing when summoned, nor unless a sufficient Sum shall have been tendered with the Summons for his reasonable Expenses in going to and returning from the Place stated in the Summons.

Powers of President in respect of the Accounts of Undertakers where a Guarantee of Interest shall have been given.

CCXXXII. In Cases of private Undertaking, where a Guarantee of Interest shall have been given by any Council in respect of the Expenditure of any Undertaking, the Undertakers thereof shall half-yearly lay a Statement of their Accounts before such Council; and if there shall be any Item of Expenditure contained in such Statement which shall appear to such Council to be not in accordance with the Purpose for which the Guarantee was given, such Council may appeal to the President in respect of such Item, who may decide thereon, subject to Appeal by either Party to the Administrative Council; and if the President or the Administrative Council, on Appeal, shall decide against the Item complained of, it shall not be included in the Sum in respect of which Interest can be claimed under the Guarantee; and in any Case where Interest shall be claimed under a Guarantee, the Council that has given such Guarantee may object to any Portion of the Expenditure which shall seem excessive, or not in accordance with the Agreement entered into with the Council, subject to the like Appeal to the President and to the Administrative Council; and in either Case the President or the Administrative Council may determine that any Costs incurred by the Undertakers in respect of such Complaint shall be paid by the Council complaining.

Money lodged by Applicants in respect of private Undertaking to be accounted for.

CCXXXIII. To the financial Statements herein-before required to be laid before the several Councils or Committees of Management appointed under this Act there shall in every Case be added a separate Statement of all Sums received from Applicants on account of Works of private Enterprise, and of the several Items of Expenditure on account thereof which have been made by Order of the President, and such Accounts shall be signed by the President, and shall be countersigned by his Secretary.

How Applicants or Appellants may withdraw their Applications or Appeals.

CCXXXIV. If any Applicant for any Work, or any Appellant, shall be desirous to withdraw his Application or Appeal, he shall give Notice in Writing of his Wish to do so to the President, who shall give such public Notice thereof as he shall consider sufficient, and shall therein call on all Persons who shall have Claims against the Applicant or Appellant in respect of such Application or Appeal to send a Statement thereof to his Office within a Time stated; and

so

so soon as he shall be satisfied that there are no outstanding Claims, or that all Claims shall have been satisfied, he may repay any Money which shall remain in the Hands of the Treasurer in respect of such Undertaking unexpended, or give up to the Applicant or Appellant the Bonds or Securities which may have been entered into or given.

How Costs to be taxed in private Undertakings.

CCXXXV. If any Applicant in any private Undertaking shall consider that he has Reason to complain of Costs charged by the Solicitor of the County, such Costs shall be examined and taxed by the President, or he may depute to the Assessor and to Two Members of the Council of the County to report thereon, and the President shall give his Decision in accordance with such Report, and the Decision of the President in either Case shall be final.

President may direct Notice of Applications to be published in the London Gazette.

CCXXXVI. The President in all Cases of private Undertaking may, in addition to the Publication of Applications required by this Act, require such further Publication in the London Gazette, or in any Newspaper circulating within the County, or in any Dublin or London Newspaper, as he shall consider requisite, in order to give Notice of such Application to all Persons who may be affected thereby.

General Provisions.

All Acts now in force and available by Grand Juries shall extend to Councils.

CCXXXVII. All Acts of Parliament in force at the passing of this Act which have enabled the Grand Jury of a County, or any Contractor, or other Person acting on a Presentment by such Grand Jury or under its Authority, to do any Act or Thing in pursuance of or in execution of any Matter or Subject presented by such Grand Jury, shall apply to the several Works or Undertakings or Orders of the Councils of the County or District or of the Committee of Management of an Electoral Division under this Act, and also to all Questions of Costs or Damages or Compensations which may arise in respect of such Works, when not otherwise provided for under the Provisions of this Act: Provided always, that the Maintenance of deserted Children, which has heretofore been paid from local Rates, shall henceforward be provided for by the Board of Guardians of the Union in which the Parish to which such Children are chargeable is situated.

Notices may be served by registered Letter.

CCXXXVIII. All Notices required to be served under this Act may be served by registered Letter, if the Address of the Party be known, and that it be in the United Kingdom; but if otherwise, the Insertion of the Notice in the Dublin Gazette and in One Newspaper circulating within the County or Counties which may be affected by such Notice shall be sufficient.

The Scale on which Maps, Plans, &c. are to be drawn is to be settled by the Administrative Council.

CCXXXIX. All Maps, Plans, and Sections, either in respect of public Works or private Undertakings, shall be drawn on such a Scale as shall be determined on by the Administrative Council of the Lord Lieutenant to be the general Scale to be used in all Applications to Councils, but different Scales may be determined on by the Council for different Classes of Works; and in all such Maps, Plans, or Sections, where a Margin for Deviation may be required, it shall be shown thereon; and in order to give full Information to the Occupiers whose Lands may be affected by the proposed Work, the full Boundaries of every Field which or any Part of which shall be proposed to be taken by the Undertakers shall be shown on such Maps, Plans, and Sections, as well as any Bridge, Road, Church, Chapel, House, or other Building lying within One hundred Yards of the proposed Work or of any Line of Deviation.

In certain private Undertakings Plans, &c. to be lodged with Postmaster of the Town.

CCXL. In every Case where an Application shall be made for the Sanction of any Council under this Act for any private Undertaking, in respect of which Rates may be levied off any Town, under the Provisions of any of the above-mentioned Acts of One thousand eight hundred and forty-seven or of this Act, a Copy of the Application, and of all Maps and Documents connected therewith, and a Statement of the Rates or Charges which it is proposed to make in respect of such Undertaking, shall, in addition to the general Notices required under this Act, be lodged by the Applicant with the Postmaster of such Town, and shall remain there for public Inspection for at least Days before such Application shall be taken into consideration; and if the Application shall affect any tidal or navigable River, or the Shores of the Sea or of any Bay or Harbour, a Copy thereof, and of all Documents connected therewith, shall be lodged with the Postmaster of the Town in or nearest to which the Work is proposed to be executed, and another Copy thereof and of all such Documents shall be sent to the Lord High Admiral of the United Kingdom of Great Britain and Ireland, or the Commissioners for executing the said Office of Lord High Admiral for the Time being.

Where the Plnes are to be lodged with the nearest Postmaster.

CCXLI. If the Application shall be for any private Undertaking for the Improvement of Lands by Drainage, Irrigation, or otherwise, or for the Reclamation of Waste Lands, or the Embankment of Waste of River or Sea, or for any Work of private Interest which may be undertaken under the Provisions of this Act, a Copy of the Application and of all Documents connected therewith shall be lodged by the Applicant with the Postmaster of the Town nearest to the Place where such Undertaking is proposed to be executed, to be kept there for public Inspection for such Period of Days as aforesaid; and

and every Occupier whose Lands shall appear by such Plans to be affected by the Undertaking may require a Copy of such Plans to be supplied to him, without Charge, by the Undertakers.

Power of Superior Courts over the several Councils.

CCXLII. In order to ensure due Submission of the inferior Councils to the Orders of the President and to the Decisions of the Superior Courts, be it enacted, That the President of the County or any superior Council may apply to any of the Superior Courts in Dublin for an Injunction to restrain any inferior Council or Committee of Management from doing any Act which the President or the superior Council under this Act has Power to prohibit or suspend, or for an Order to compel the inferior Council or Committee of Management to do any Act which under the Provisions of this Act it is required to do, in accordance with the Order of the President or of the superior Council; and every Member of the inferior Council or of the Committee of Management shall be personally responsible for any Act which he may do or omit or neglect to do in contravention of such Order or Injunction, as the Case may be; and every Member of an inferior Council or of a Committee of Management who shall have been present at any Decision of the Council or Committee which shall be in contravention to the Decision of a superior Council or of such Orders of the President as he is under this Act authorized to issue, and who shall not have required that his Dissent from such Decision should be recorded in the Minutes, and the Clerk who shall have countersigned such Decision, shall each and every One be liable to such Fine not exceeding *Fifty Pounds* as the Court under the Provisions of this Act shall impose, and to all the Costs incurred in consequence of such Proceedings in any of the Superior Courts.

Compensations may be commuted for perpetual Rents.

CCXLIII. In all Cases of Compensation, where the President of the County in which any Undertaking in respect of which Compensation is claimed shall, with the Advice of the Assessor, consider it right, or when the Parties interested shall desire it, the Compensation to be made to any Person may be commuted for a perpetual Rent, leviable from off the Lands of the Party by whom the Compensation is to be paid; and in such Case the Warrant of such President shall give Power of Entry and of Distress for the Recovery of the Rent reserved, and all other Powers for the Recovery of the commuted Rent as are usually contained in Leases of Lands for the Recovery of the Rents reserved thereby.

Where Councils may desire to alienate Property.

CCXLIV. If in any Case the Council of a County or of a District, or a Committee of Management, shall be desirous to sell or exchange, or let on Lease, or to surrender, whether with Payment of Fine or otherwise, any Real Property which it may hold or be

possessed of, it shall be at liberty to do so, provided that the Consent of the President of such County, and of the Lord Lieutenant in the Case of a County Council, or of the President and of the County Council in the Case of a District Council, or of the District Council in the Case of a Committee of Management, as the Case may be, shall have been given thereto.

Proposals to alienate must be brought before Councils as other Applications.

CCXLV. All Proposals for such Alienations or Dispositions of Real Property shall be brought before the several Councils or Committees of Management in like Manner as Cases of Application for Works, and similar public Notice thereof shall be given; and when such Proposals shall have been finally approved of, the Deed of Conveyance, or of Lease or Surrender, shall be executed by the Chairman and One Member of the Council or Committee of Management, and shall be countersigned by the Clerk, and also be countersigned by the President of the County as approving of it.

Fees to be paid to the Councils by Applicants for private Works.

CCXLVI. In all Cases of private Undertaking, where the Approval and ultimate Sanction of any Application, except it be appealed against, rests with One Council, whether such Council be of a County or District, the Applicant shall, previous to lodging his Application with the County or District Office, pay to the Treasurer of the County or District, as the Case may be, the Sum of *Twenty Pounds*, which shall be dealt with by the Treasurer in the Manner herein-after directed: Provided always, that if the Application shall not be approved of by the Council or by the Executive Committee, as the Case may be, *One Half* of the Sum so paid to the Treasurer shall be repaid to the Applicant.

Fees to District Councils.

CCXLVII. In all Cases where an Application is by this Act required first to be approved of by a District Council, and to be ultimately sanctioned by the County Council, the Sum of *Ten Pounds* shall be paid in manner aforesaid to the Treasurer of the District; and if the Application be approved of, a like Sum, and in like Manner, shall also be paid to the Treasurer of the County: Provided always, that if the Application is such that by this Act it is required to be laid before more than One District Council, then *Five Pounds* only shall be payable by the Applicant to each District Council.

How such Fees are to be allocated.

CCXLVIII. All such Payments shall be carried by the respective Treasurers to the general Credit of the County or District, as the Case may be, and shall not be deemed to include any of such Sums as may be required under this Act for an Applicant in respect of Expenses which may be incurred under the Orders of the President.

CCXLIX. In

What Council shall determine the Security to be given by Applicants for present Works.

CCXLIX. In all Cases of private Undertaking that Council which shall have the Right of final Determination in respect of such Undertaking shall determine the Amount of Security which shall be given by the Undertakers for the Completion of the Works, and for the Payment of all Costs and Damages and Compensations which may be incident thereto.

Every Applicant for a private Work shall have an Agent in the County.

CCL. Every Applicant for a private Undertaking, if he do not reside within the County to which such Application relates, shall with his Application state the Name and Address of some Person or Firm resident within the County who or which shall be his authorized Agent for receiving all Notices or Requisitions.

Administrative Council of the Lord Lieutenant.

Administrative Council of the Lord Lieutenant not to be continued.

CCLI. For the Purposes of this Act, the Lord Lieutenant of Ireland shall be assisted by a Council, which shall be called the Administrative Council, and shall be composed as follows: The Chief, or, in his Absence, the Under Secretary of Ireland, the Lord Chancellor of Ireland, and Two other Judges of the Superior Courts selected by the Lord Lieutenant, the Chairman of the Board of Works, the Chief Poor Law Commissioner, the Presidents of the several Counties, and *Ten* such other Persons as the Lord Lieutenant shall select.

Lord Lieutenant may select a President and Vice-President.

CCLII. The Lord Lieutenant shall select a President and Vice-President of the Council; but in the Absence of both the Council may elect a President for the Day.

Clerk of Privy Council to act as Clerk of the Administrative Council.

CCLIII. The Clerk of the Privy Council in Ireland shall act as Clerk of the Administrative Council, and Minutes of all Proceedings of the Council shall be kept by him, and shall be authenticated by the Signature of the President of the Day, and by the Countersignature of the Clerk.

Council to meet when convened by Lord Lieutenant.

CCLIV. The Council shall meet when thereto required by the Lord Lieutenant.

Administrative Council to act as a Court of Appeal;

CCLV. The Administrative Council shall act as a Court of Appeal from the Decision of the inferior Councils, and shall hear and determine all Differences which shall arise between Counties, and all Questions which under the Provisions of this Act may be brought under its Cognizance.

May vary Rules for the Conduct of

CCLVI. The Council shall, with the Assent of the Lord Lieutenant, frame Rules and Regulations for the Conduct of its Proceedings,

its Proceedings.

ceedings, and for the Manner in which Applications or Appeals shall be brought before it, and shall give public Notice thereof.

Decision of Administrative Council binding on all other Councils.

CCLVII. The Decisions of the Administrative Council which shall not have been disapproved by the Lord Lieutenant shall be binding on all inferior Councils in all Cases which under the Provisions of this Act are subject to its Cognizance.

Lord Lieutenant may dissent.

CCLVIII. The Lord Lieutenant may dissent from any Decision of the Council; and if he shall so dissent, such Decision shall be null and void, but he shall cause a Statement to be entered on the Minutes of the Council of the Motives which have led to his Dissent.

Decisions of Administrative Council to take effect in Seven Days.

CCLIX. All Decisions of the Council shall take effect in *Seven* Days after the Meeting of the Council, if the Lord Lieutenant shall not in the meantime have dissented from such Decision.

Power of Lord Lieutenant to suspend the Execution of private Works, and to order local Inquiries.

CCLX. If it shall appear to the Lord Lieutenant that the public Interests are affected by any private Work undertaken by a Company or otherwise which shall have received the Sanction of a Council, or by any Work of a Kind not heretofore presentable by a Grand Jury, and which it may be proposed to execute at the Charge of any Division, District, or County, he may bring the Work under the Consideration of the Council, as if an Appeal had been lodged against the Work, and the Council may order that the further Prosecution of the Work, or any Proceedings which might otherwise be taken in respect of it, shall be suspended for such Period not exceeding *Forty* Days as it shall consider requisite, and may order such local Inquiries or Surveys to be made as it shall think right, and by such Persons as it shall depute thereto, with such Powers of summoning Witnesses, requiring the Production of Papers, and of administering Oaths, as the Lord Lieutenant may think proper to assign to the Persons so deputed; and if the Council, after such Inquiries shall have been made, shall be of opinion that the Work will be injurious to the public Interests, it shall be lawful for the Lord Lieutenant, if he shall think fit to do so, to issue an Order prohibiting the further Prosecution of such Work: Provided always, that the Costs of all such local Inquiries or Surveys shall be paid for out of any Monies placed at the Disposal of the Lord Lieutenant by Parliament for that Purpose, and shall be charged among the Expenses incurred for the Civil Government of Ireland.

Lord Lieutenant may remove Suspension within Three Years.

CCLXI. The Lord Lieutenant may, at any Time within *Three* Years after its Issue, withdraw such Order of Prohibition, on the Application of the local Council or Committee which shall have sanctioned

sanctioned the Work, and in such Case the Work may be proceeded with as if no such Order of Prohibition had been issued.

In certain Cases private Application may be made previously to the Administrative Council.

CCLXII. When any private Undertaking shall affect Two or more Counties, the Undertakers thereof may, with the Assent of the Lord Lieutenant, apply to the Administrative Council for its Sanction, and in such Case no previous Sanction of any other Council shall be required; and the Administrative Council shall have the same Authority to decide on and to empower the Undertakers to execute the Undertaking as any County or District Council has, under the Provisions of this Act, in respect of a private Undertaking within a County or District; and the Form of Proceeding in respect of such Application to the Council shall be as follows:

Where the Application is to be lodged.

CCLXIII. The Application, and all Plans, Sections, and other Documents connected therewith, together with an Estimate of the Cost thereof, and a List of the Undertakers and of the Sums in respect of which it is proposed that they should be respectively liable, shall be lodged in the Office of the Commissioners of Public Works in Dublin; and Copies of such Application and Plan, so lodged, shall be deposited in the Council Office of every County directly affected by the Application, Days at least before the Meeting of the Council at which the same shall be taken into consideration.

Notice of Application to be published.

CCLXIV. Notice of such Application having been made shall be published in the Dublin Gazette within *Seven* Days after the Deposit of the Plans in the Office of the Commissioners of Public Works, and such Notice shall specify the several Counties in the Council Offices of which Copies of the Plans have been or are intended to be deposited, and a similar Notice shall be inserted in One Newspaper at least published or generally circulating in every County directly affected by the proposed Work; and the Council of every such County shall have Power to report their Opinion upon the Undertaking to the Administrative Council.

Lord Lieutenant may order local Inquiries.

CCLXV. The Lord Lieutenant may direct the Chief Commissioner of Works to have such Investigations and Inquiries made as shall enable him to report to the Administrative Council thereon.

Administrative Council may approve of the Application, and determine on the Amount of Security which shall be given.

CCLXVI. The Administrative Council may approve of the Application or reject it, as shall seem expedient; and if the Administrative Council shall approve of the Application, it shall determine the Manner in which Security shall be given by the Applicants for the due Performance of the Work, and for the Payment of all Damages, Compensation, and Costs which may be attendant thereon, as well as

as the Amount of such Security, and shall also determine what Sum shall be lodged by the Undertakers for the Payment of such Expenses as may probably be incurred by the Council in respect thereof, as herein-after mentioned.

Copies of Application and Pleas to be deposited in Offices of Councils affected by the Work.

Notice to be given to the Occupiers and others affected.

CCLXVII. The Undertakers shall, within . . . Days after such Approbation of the Administrative Council, cause Copies of the Application, Plans, and other Documents lodged in the Office of the Commissioners of Public Works to be deposited in the Office of every Council of a District in or through which or any Portion whereof the Work is intended to be executed or carried; and the Undertakers shall also, within Days after such Approbation as aforesaid by the Administrative Council, cause a Notice to be served on every principal Occupier of Lands or Buildings the entire or any Portion of which may be required by them, and also on the several Parties whose Rights in connexion with such Lands and Buildings may be affected by the Work; and such Notice shall specify the Quantity of Land and the Portion of any Buildings which may be required, and shall be accompanied by a Map showing the Position of the Lands or Buildings which the Undertakers may propose to take, and shall state the Place within the District where the Application and the several Plans and Documents connected therewith may be inspected.

Lord Lieutenant may order Surveys and local Inquiries, and may appoint an Assessor in respect of the Application.

CCLXVIII. The Lord Lieutenant may, at the Cost of the Applicants, cause such Surveys to be made as shall seem to him to be requisite, either to test the Accuracy of the Plans deposited, or, in case of any competing Plans, to enable the Council to decide between them; and he may also, at the Charge of the Applicants, appoint a Barrister of not less than *Seven* Years standing, who shall act as Assessor to the Council in respect of the Application, who shall require Proof to be given to him that all the preliminary Steps required under the Provisions of this Act have been complied with, and also as to the Solvency of the Undertakers, and of the due Execution by the proper Parties of any Deed of Settlement or Partship, if such there be, in connexion with the proposed Work; and such Assessor shall receive and classify and report on any Memorials for or against the Work to the Administrative Council; which Memorials, together with any Reports from District Councils which under the Provisions herein-after contained may be made in respect of such Work, shall be deposited in the Office of the Administrative Council; and if any Engineering Question shall arise on such Memorials, such Assessor may, if he shall think fit, transmit such Memorial to the Chief Commissioner of Works, to report thereon.

CCLXIX. And

District Councils may report on the proposed Work.

CCLXIX. Any District Council affected by the proposed Work may, within Days from the Time of the Application being deposited in the Office of the Administrative Council as aforesaid, report their Opinion thereon to the last-mentioned Council; and every Person affected by the Application may within a like Period forward to the Administrative Council a Memorial, either for or against the Work, and may pray to be heard by Counsel or otherwise before the Administrative Council.

Administrative Council to decide on the Work.

CCLXX. The Lord Lieutenant shall at some Period, not less than Days nor more than Days from the Time at which the Application shall have been approved of by the Administrative Council, again convene the Council; and at such Second Meeting, after hearing Evidence for or against such Undertaking, on Oath or otherwise, as it shall think fit, the Administrative Council shall finally determine whether the Application shall be granted or rejected.

Council may require Alterations of the Plan.

CCLXXI. The Administrative Council shall have Power to require such Alteration of the Plan or such Additions thereto as it shall consider right and for the public Advantage, and shall have then or at a subsequent Period Power to give its Sanction to any Byelaws or Regulations which the Undertakers may require for the Construction, Maintenance, or Regulation of the Works, or the Government of their Officers and Servants, and shall also have Power to regulate any Tolls and Charges which may be made for the Use of or in respect of such Work, and from Time to Time to alter the same.

Administrative Council cannot guarantee Interest or Work without Consent of Council affected thereby.

CCLXXII. The Administrative Council shall not have Power to sanction any Guarantee of Interest or the Execution of any Portion of the Work by any County or District without the Consent of the Council of such County or District, as the Case may be.

The Lord Lieutenant to authorize the Commencement of the Work and the Application of certain Acts.

CCLXXIII. When the Administrative Council shall have finally granted any such Application, the Lord Lieutenant may by Warrant under his Hand authorize the Undertakers to make use of any of the Provisions of the herein-before recited Acts of One thousand eight hundred and forty-five and One thousand eight hundred and forty-seven which may be required for the Execution of such Work; and such Warrant shall specify which and what Parts of any of such Acts the Lord Lieutenant shall authorize to be used in respect thereof.

The Presidents of Counties to report to the Lord Lieu-

CCLXXIV. The Lord Lieutenant shall direct the several Presidents of Counties to report to him annually on the State of the Counties within their Charge, and such Reports shall be laid before

tenant on the State of their Counties.

Parliament, with such Observations thereon as the Lord Lieutenant may think proper to annex thereto; and such Reports shall have Reference to such Subjects and shall be made in such Form as the Lord Lieutenant shall direct; and for the Purpose of completing their Reports the Presidents shall have Power to call on the Chairmen of Councils or Committees of Management, or any of their Officers, for such Information as they may require.

Agricultural and other Statistics.

CCLXXV. The Administrative Council may, with the Assent of the Lord Lieutenant, make such Orders and Regulations in respect of the obtaining correct agricultural or other Statistics as it shall think right, and such Orders and Regulations shall be observed and followed by the several Councils and Committees of Management; and for the Purpose of obtaining such Statistics, such Officers or Persons, with adequate Salaries, shall be appointed by each Council or Committee of Management, as the Lord Lieutenant shall approve of.

Administrative Council to have Charge of all Lunatic Asylums and Prisons.

CCLXXVI. The Administrative Council shall have under its Charge the several Lunatic Asylums throughout Ireland, as well as the several Prisons which are maintained, either wholly or in part, by local Rates, and may, with the Assent of the Lord Lieutenant, make Rules and Regulations for the Administration of such Lunatic Asylums and Prisons respectively.

Administrative Council to have Power to hear Complaints against the Acts of any Commissioners appointed by the Government for the Execution of any Work the Cost of which is to be repaid by local Levies.

CCLXXVII. The Administrative Council shall have Power to hear Complaints against the Acts of any Commissioner or Commissioners appointed under the Authority of any Act of Parliament for the Execution of Works the Cost of which is wholly or in part to be repaid by Rates levied locally, and they may order such local Inquiries or Surveys to be made in reference thereto as they are herein-before authorized to order in respect of other Works and Undertakings, and they may make such Decision thereon as the Justice of the Case may seem to require; and such Decision shall be binding on such Commissioners, provided that within *Twenty* Days after such Decision the Commissioners of Her Majesty's Treasury shall not have appealed against the Decision of the Administrative Council to One of the Superior Courts of Law in Dublin, whose Decision thereon shall be final.

Interpretation Clause.

Repealing Clause.

SCHE-

SCHEDULES.

Grand Juries (Ireland

A

B I L L

To relieve Grand Juries from fiscal Duti
to place the Administration of local
in Ireland in elected Councils.

(*Prepared and brought in by*
Sir Denham Norreys, Mr. Pollard Urquhart, a
Mr. Fagan.)

Ordered, by The House of Commons, *to be Prin*
4 *July* 1855.

[Bill 221.]

Under 11 *oz.*

11 *July* 1855. 18 & 19 Vict.

(No. 2.)

A

BILL

TO

Amend an Act for enabling Grand Juries in Ireland to borrow Money from private Sources on the Security of Presentments, and for transferring to Counties certain Works constructed wholly or in part with Public Money.

WHEREAS an Act was passed in the Session holden in the Sixteenth and Seventeenth Years of Her Majesty, Chapter One hundred and thirty-six, "for enabling Grand Juries "in Ireland to borrow Money from private Sources on the Security "of Presentment, and for transferring to Counties certain Works con- "structed wholly or in part with Public Money:" And whereas the several Piers, Canal, and Works mentioned in the Schedule to this Act were omitted to be included in the Second Schedule to the said recited Act annexed, and it is expedient to amend the said Act: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preamble. 16 & 17 Vict. c. 136.

Works mentioned in the Schedule may be transferred to the Counties in which they are situated.

I. It shall be lawful for the Commissioners of Public Works, by and with the Consent and Direction of the Commissioners of Her Majesty's Treasury, by Warrant under the Hands of the said Commissioners of Public Works or any Two of them, from Time to Time and at any Time hereafter to direct that any Work mentioned in the Schedule hereto annexed shall be deemed and become the public Property of the County in which the same is situate, and from and after the Date of any such Warrant such Work, together with all Ways, Rights, Members, and Appurtenances thereto belonging, and all Lands held therewith, shall be deemed and taken to be the public Property of such County, and be held, maintained, and preserved by the Grand Jury of the County mentioned in such Warrant in like Manner as any Public or County Road, or Bridge within such County, the Expense of which is or may be chargeable to such County or any Barony thereof.

The Provisions applicable to the Works transferred under 16 & 17 Vict. c. 136. to be applicable to Works transferred under this Act.

II. From and after the Date of any such Warrant all and every the Enactments and Provisoes in the said recited Act contained as regards the several Harbours, Piers, Quays, Landing Places, and other Works in the Second Schedule to said recited Act mentioned, shall be held to apply and be applied to the Work mentioned in the Schedule to this Act annexed, and transferred by such Warrant in the same Manner as if such last-mentioned Work had been included in the said Second Schedule to the said recited Act annexed.

Extension of the Time within which Money payable under a Final Award of the Commissioners of Public Works may be ordered to be paid.

III. And whereas it is by the said recited Act enacted, that where any Sum of Money under the Final Award of the said Commissioners already made or thereafter to be made should be payable by any County and District, or either of them, in respect of Monies advanced by way of Loan for or in respect of any Harbour, Pier, Quay, Landing Place, or other Work under the Provisions of the Act therein mentioned, the same should be payable by the Grand Jury of such County; and the Secretary of the said Commissioners should certify to the Secretary of such Grand Jury the Amount of such Sum of Money, and the Instalments and Manner by and in which the same was payable under the Award of the said Commissioners; and such Grand Jury are thereby required, without Application to Presentment Sessions, to make Presentment of the Amount mentioned in such Certificate, to be payable at the Times and in the Manner stated in such Certificate, to be raised off the County at large and District, or either of them, as the Case might be; and in default of such Presentment the Court at such or the next Assizes should order the Amount mentioned in such Certificate to be raised off such County and District, or either of them, as the Case might be, and that such Order should have the Force and Effect of a Presentment: And whereas it is

expedient

expedient that the Time within which it is by the said Act provided that the Court should order the Amount mentioned in any such Certificate to be raised as aforesaid should be extended: In all Cases where the Secretary of the said Commissioners of Public Works shall have heretofore certified or may hereafter certify to the Secretary of any Grand Jury the Amount of Money and the Instalments and Manner by and in which the same is payable under the Award of the said Commissioners of Public Works in respect of any Harbour, Pier, Quay, Landing Place, or other Work, and the Grand Jury of such County shall have made or may make default in presenting the Amount mentioned in any such Certificate, the Court shall at any Assizes hereafter to be held for such County, on an Application on behalf of the Commissioners of Public Works, order the Amount mentioned in such Certificate to be raised off the County or District, or either of them, (as the Case may be,) and such Order shall have the Force and Effect of a Presentment, and the Treasurer of such County shall insert such Amount as shall be so presented or ordered as aforesaid in his Warrant or Warrants, and the same shall be applotted, raised, and levied, sued for and recovered, by such and the same Ways and Means as any Grand Jury Cess; and when and so soon as such Amount as aforesaid shall be raised and received by the Treasurer of the County, such Treasurer shall immediately pay the same to the Paymaster of Civil Services in Ireland for the Time being, and the same shall be by him paid over and applied in such Manner as the Commissioners of Her Majesty's Treasury shall from Time to Time direct in discharge of the Loan mentioned in any such Award, and chargeable to such County and District, or either of them.

IV. That the said recited Act and this Act shall be construed together as One Act.

SCHE-

SCHEDULE referred to in the foregoing Act.

Where situate.	Pier, Canal, or other Work, as the Case may be.	County in which situate.
Belmullet - -	Navigable Cut or Canal -	Mayo.
Burrin - - -	Pier - - -	Cork.
Ring - - -	Pier - - -	Cork.

Grand Juries (Ireland).

(No. 2.)

A

B I L L

To amend an Act for enabling Grand Juries in Ireland to borrow Money from private Sources on the Security of Presentments, and for transferring to Counties certain Works constructed wholly or in part with Public Money.

(Prepared and brought in by Mr. Wilson and Mr. Horsman.)

Ordered, by The House of Commons, *to be Printed,* 11 *July* 1855.

[Bill 240.] *Under* 1 *oz.*

17 *May* 1855. 18 Vict.

(Ireland.)

A

BILL

TO

Facilitate the Applotment of Grand Jury and other County Assessments according to the General Valuation of rateable Property in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS an Act was passed in the Session holden in the Fifteenth and Sixteenth Years of Her Majesty's Reign, Chapter Sixty-three, to amend the Laws relating to the Valuation of rateable Property in Ireland: And whereas the said Act was amended by an Act passed in the Sixteenth and Seventeenth Years of Her Majesty's Reign, Chapter Seven, and by an Act passed in the Seventeenth Year of Her Majesty's Reign, Chapter Eight: And whereas it is expedient to make further Provision for the Applotment and Assessment of Grand Jury Assessments according to the Valuation of rateable Tenements in Ireland in pursuance of said Acts: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Preamble.
15 & 16 Vict. c. 63.
16 & 17 Vict. c. 7.
17 Vict. c. 8.

I. When the General Valuation of the rateable Property in Ireland has been or shall hereafter be completed in any County in Ireland under the Acts in force relating to such General Valuation, all Grand

On Completion of General Valuation

all Grand Jury Assessments to be assessed according to the final List of such Valuation.

Jury Assessments hereafter to be made in such County shall be applotted, assessed, and paid upon and in respect of the Property liable thereto by a Poundage Rate according to the net Annual Value of the several Tenements and Hereditaments as set forth in the final List of such Valuation so completed, and when and so often as such Valuation shall be revised under the Laws in force for the Purpose of such Revision, all such Assessments as aforesaid shall thenceforward be applotted, assessed, and paid upon and in respect of such revised Valuation.

Applotment and Assessment to be made by County Treasurer.

II. Such Applotment and Assessment shall be made by the Treasurer of each County respectively, and shall be entered in a Book signed by such Treasurer, and by him kept open in his Office at all reasonable Times for public Inspection; and in making such Applotment and Assessment by such Poundage Rate it shall not be necessary to take into account any smaller Fraction than the *One Fourth of a Penny* in the Pound; and no Rate or Assessment so made or applotted shall be vitiated or impugned on account of any Excess, Deficiency, or Difference between any Sum or Sums authorized to be applotted or raised off any County, Barony, Parish, Townland, Tenement, or Hereditament, provided that the same shall have arisen from such fractional Part of a Pound in making such Applotment.

Treasurer to deliver Copy of Applotment to Cess Collector.

III. The Treasurer of each County in which the Grand Jury Assessments shall have been made under this Act shall make out and deliver to each Collector authorized to collect Grand Jury or County Cess within such County a fair Copy of so much of such Applotment and Assessment as shall relate to the Barony, Division, or other District within which such Collector shall be so authorized to collect Grand Jury or County Cess, and shall annex thereto under the Hand and Seal of such Treasurer a Warrant authorizing such Collector to collect and levy the respective Sums in such Copy mentioned, and upon Receipt thereof such Collector shall and may proceed to collect, levy, and enforce Payment thereof; and in all Actions and Proceedings for Recovery of or in relation to any Rate or Assessment made under the Provisions of this Act the original Applotment Book, or the Copy of so much thereof as shall be delivered by any Treasurer to any Collector of Grand Jury or County Cess, shall be received and taken, without further Proof or Oath, as primâ facie Evidence of the due making of the Assessment and Applotment therein mentioned, and of the several other Matters and Statements therein respectively contained and set forth; and in the Absence of such Applotment or collecting Book a Copy of such Applotment Book, or of so much thereof as shall relate to the Rate

or

or Assessment in question, certified by the Treasurer in whose Custody the Original shall appear to be deposited, shall, without Proof or Oath or Notice to produce the Original, be in like Manner received and taken as primâ facie Evidence of the several Matters aforesaid; and each Treasurer with whom such Applotment Book shall be deposited shall furnish certified Copies thereof, or Extracts therefrom, to any Person requiring the same, upon being paid *One Shilling* for the first Seventy-two Words, and *Three Halfpence* for every succeeding Seventy-two Words contained in such Copy or Extract.

Grand Jury to present Expenses of Applotment.

IV. When the Treasurer of any County, with the Sanction of the Grand Jury, shall have incurred or shall incur any necessary and proper Expenses in making such Assessments or Applotments as aforesaid for which no Provision was, is, or shall be made by Law, it shall be lawful for the Grand Jury of such County, without previous Application to Presentment Sessions, to present, to be raised off and paid by such County, all such necessary and proper Expenses as aforesaid, including the Expense of providing and preparing such Books as aforesaid, as such Grand Jury may deem reasonable.

Grand Jury may re-present Sums uncollected by reason of Change of Boundaries, &c.

V. Where Sums have been or shall hereafter be presented by any Grand Jury in Ireland to be raised off any Tenements or Hereditaments, and where, owing to the Alteration of Boundaries, Change of Occupiers, or other Causes, it has been heretofore or may hereafter be found impossible to collect the several Sums applotted and assessed on such Tenements respectively, or the Occupiers thereof, it shall be lawful for the Grand Jury of each County in Ireland and they are hereby authorized and required, without any previous Application to Presentment Sessions for Approval thereof, to re-present all such Sums so remaining unpaid as aforesaid to be paid by the several and respective Baronies or Half Baronies within which the Tenements and Hereditaments on which or in respect whereof the Sums remaining unpaid have been or shall hereafter be so charged as aforesaid shall be situate: Provided always, that in all Cases where the Tenements and Premises so charged as aforesaid can be traced out or identified, such Sums so remaining due on such Tenements and Premises shall be re-presented thereon: Provided also, that no such Re-presentment shall in any Case be made by the said Grand Jury without previous Examination on Oath (which Oath may be administered by the Foreman of the said Grand Jury, or any Member thereof, in the Presence of the said Grand Jury) as to the Inability of the Collector to levy same owing to the Insolvency of the Parties chargeable therewith, or to the Difficulty of tracing out or identifying the Premises in respect of which such Arrears were or shall be payable, or other sufficient

sufficient Cause, notwithstanding all reasonable Exertions having been made by the Collector of such Arrears to enforce Payment thereof.

Assessments on Charitable Institutions to be charged on immediate Lessor at One Half of the Rent payable for same.

VI. Where a Rent shall be payable in respect of any Tenement or Hereditament, or Portion thereof, occupied and distinguished as specified in the Second Section of the Act of the Seventeenth Victoria, Chapter Eight, whilst such Premises shall be so occupied and distinguished, Half such Rent shall be liable to be assessed and shall contribute to Payment of Grand Jury Assessments, and such Assessments shall be assessed and applotted on such Half Rent in manner herein-before mentioned, and shall be a Charge on the Premises and be paid by the immediate Lessor thereof, and in default of Payment by such Lessor at the Expiration of Twenty-one Days shall and may be paid by the principal Officer or other Person by whom or through whose Hands such Rent shall or may be payable or paid, and by him deducted from such Rent; and where any Person receiving Rent in respect of any such Premises shall also pay a Rent in respect thereof, he shall be entitled to deduct from the Rent so payable by him such Proportion of such Rate or Assessment so paid by him as he would be entitled to deduct had the same been assessed and paid as and for Poor Rate under and by virtue of the Laws relating to the Relief of the destitute Poor in Ireland, and such Rates and Assessments shall be paid and recoverable in like Manner and subject to the like Provisions as Poor Rate in Ireland.

Grand Jury Cess to be recovered in same Manner as Poor Rate.

VII. In addition and without Prejudice to the Remedies by Law provided for Recovery of Grand Jury Cess, the Provisions of the Acts relating to the Recovery of Rates made for the Relief of the destitute Poor in Ireland shall apply, extend to, and include such Grand Jury Cess, and the Collectors of Grand Jury Cess shall have the same Powers for Recovery thereof as are by the said Acts given to the Collectors of such Rates for the Relief of the destitute Poor; and all Proceedings which the Guardians are by the said Acts authorized to take for the Recovery of the said Rates may be taken and prosecuted in the Recovery of Grand Jury Cess by and in the Name of the Treasurer of the County, and in the County of Dublin by and in the Name of the Secretary of the Grand Jury.

Grand Jury may allow Poundage Rate for Collection, not exceeding One Shilling in the Pound.

VIII. It shall and may be lawful for the Grand Jury of any County from Time to Time to present to be paid to each or any of the Collectors of Grand Jury Cess in such County such Rates of Poundage for the Collection of Grand Jury Cess as they shall think fit, not exceeding *One Shilling* in the Pound on the Amount collected, anything in any Act or Acts limiting such Poundage to a less Sum than *One Shilling* in the Pound to the contrary notwithstanding.

IX. When

Grand Jury may accept more than Two Securities for Cess Collector.

IX. When any Difficulty shall arise by reason of any Collector of Grand Jury Cess not obtaining sufficient Security by Two Sureties only, as now by Law required, it shall and may be lawful for the Grand Jury, if they shall so think fit, to accept of any Two or more sufficient Securities joining any such Collector in a Bond in the Manner and under the Terms now by Law provided, anything in the Acts relating to the giving of such Security limiting the Number of such Securities to the contrary notwithstanding.

Grand Jury Cess to be henceforward levied in Rathmines District on General Valuation.

X. Whereas under the Thirty-second Section of the "Rathmines Improvement Act, 1847," the Finance Committee of the County of Dublin, in apportioning the Sum assessable upon the Rathmines District, are required to adopt the Valuation furnished by the Rathmines Improvement Commissioners to said Finance Committee under the said before-mentioned Section: And whereas the General Valuation of rateable Property on the said District is now completed under the several Acts relating thereto, and it is desirable to repeal said Clause: Be it enacted, That from after the *passing of this Act* the said Section Thirty-two of the "Rathmines Improvement Act" be and the same is hereby repealed, and from and after the *passing of this Act* all Grand Jury Assessments payable out of any rateable Tenement or Hereditament within the said District shall be assessed and applotted thereon in the Manner herein-before mentioned and provided.

Ridings to be deemed separate Counties.

XI. Where any County in Ireland has been or shall be divided into Ridings under the Act of the Sixth and Seventh William the Fourth, Chapter One hundred and sixteen, or any subsequent Act, each such Riding shall, for the Purposes of this Act, be deemed a separate County.

Interpretation Clause.

XII. In the Construction and for the Purposes of this Act, if not inconsistent with the Context or Subject Matter, the following Expressions shall have the Meanings herein-after assigned to them: the Word "Assizes" shall include Presenting Term; and the Word "Treasurer" shall include the Finance Committee and the Secretary of the Grand Jury for the County of Dublin; and the Word "County" shall extend to and include all Counties, Counties of Cities, Counties of Towns, and Towns Corporate in Ireland (except the County of the City of Dublin); and all the Acts and Duties by this Act required to be performed by Grand Juries and Treasurers of Counties shall and may, in the County of Dublin, be performed at the Presenting Terms by the Grand Jury of said County, duly met and impanelled, and by their Secretary; and the Expression "Grand Jury Assessments" shall mean all County, Baronial, Parochial, Town Land, and

other Rates and Assessments to be made or collected in any County by the Grand Jury thereof, or any Officers of such Grand Jury.

Limitation of Act.

XIII. This Act shall not extend to the County of the City of Dublin.

Grand Jury Assessments.

(Ireland.)

A

B I L L

To facilitate the Applotment of Grand Jury and other County Assessments according to the General Valuation of rateable Property in Ireland.

(Prepared and brought in by Mr. Horsman, Mr. Attorney General for Ireland, and Mr. Solicitor General for Ireland.)

Ordered, by The House of Commons, *to be Printed,* 17 *May* 1855.

[Bill 133.]

Under 1 *oz.*

A

B I L L

TO

Facilitate Grants of Lands and Tenements for the Purpose of Religious Worship and other Purposes connected therewith.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS many Congregations of Persons not belonging to the Established Church in Ireland have been and are in many Cases prevented from erecting suitable Buildings for Religious Worship, and for the Residence of their Clergymen, Ministers, and Pastors, and Schoolhouses for the Education of their Children, and from providing suitable Burial Grounds, by the Difficulty of obtaining Leases of Land of sufficient Duration for such Purposes, and in many Cases have been obliged to use for the Purposes aforesaid Lands granted or demised for Terms of short or uncertain Duration, and it is expedient that Tenants for Life and other Persons having limited Interests in Lands should be enabled for the Purposes aforesaid to make Grants or Leases for any Period not exceeding the Estate or Interest out of which such limited Interest is created, and to accept Surrenders of and convert into Leases for such extended Period any Leases of short or uncertain Duration already made for such Purposes or any of them: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Preamble.

Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Interpretation Clause.

I. That in the Construction of this Act the Words "Grantor" or "Lessor" shall extend to a Body Politic, Corporate, or Collegiate, making Grants or Leases:

The Word "Lessee" shall include the personal Representatives of any Lessee and his lawful Assigns:

The Word "Person" shall include any Body Politic, Corporate, or Collegiate:

The Expression "Perpetual Interest" shall comprehend, in addition to any greater Interest, any Estate for One or more than One Life, with or without a Term for Years, or for Years, whether absolute or determinable on One or more than One Life, with a Covenant or Agreement by a Party competent thereto for perpetual Renewal:

The Expression "Successors in Estate" shall extend to and include the Persons entitled for the Time being after the Lessor to the actual Receipt of the Rents and Profits of the Lands comprised in the Lease, under the same Title, Settlement, or Will with the Lessor, or under the Exercise of any Power affecting such Title or continued in such Settlement or Will, and who but for the making of the said Lease would be entitled to Possession of the Lands, or to the Possession, subject to any other existing Lease or Tenancy:

The Word "entitled" shall mean entitled either legally or equitably:

The Word "Settlement" shall include every Assurance or connected Set or Series of Assurances, whether by Deed, Will, Private Act of Parliament, or otherwise, by which Lands are or shall be limited in a Course of Settlement, or agreed so to be.

Short Title of Act.

II. In citing this Act in any Instrument, Document, Proceeding, or Act of Parliament, it shall be sufficient Designation to use the Expression "The Leasing Powers Act for Religious Worship in (Ireland), 1855."

With respect to the Persons hereby empowered to make Leases:

Power to make Leases of Land of not more than Five Acres for religious Purposes.

III. Every Person herein-after described entitled in possession to any Estate or Interest herein-after named in Lands in Ireland, or to the Receipt of any Rents and Profits thereof, whether or not such Estate shall be subject to any Mortgage or other Incumbrance (provided the Incumbrancer shall not be in possession), shall have Power to make Leases of any Part of the said Lands, (other than the Mansion House and Demesne Lands or Parks, Plantations, Gardens, Orchards, or Pleasure Grounds and Appurtenances belonging to

to or usually occupied with such Mansion House,) and not exceeding in the whole Five Acres, for the Purposes and Periods of Time, and subject to the Rents, Rights of Apportionment of Rent, Covenants, and Conditions herein stated; (that is to say,)

(1.) Her Majesty the Queen and Her Successors; the Commissioners of Her Majesty's Woods and Forests in respect of Lands situate in the Kingdom of Ireland:

(2.) Tenants in Fee Simple or Fee Farm or seised of any other perpetual Estate subject to any Mortgage or Incumbrance:

(3.) Tenants in Tail or Quasi-Entail of an Estate of Inheritance or perpetual Interest:

(4.) Tenants for the Term of their own Lives, not being Jointresses, or for the Life or Lives of any other Person or Persons, or for so many Years as they may live, or any partial Owner, for an unexpired Term of Years not being less than Sixty Years in its Inception, and whether absolute or determinable on a Life created out of an Estate of Inheritance or perpetual Interest by any Settlement, and not in consideration of or subject to any Rent reserved thereby:

(5.) Married Women entitled to any Estate specified in Numbers (2.), (3.), or (4.) for their separate Use, and whether restrained or not from Anticipation:

(6.) Tenants by the Courtesy of England:

(7.) Husbands seised in right of their Wives, or by Entireties with their Wives, provided that the Wife is entitled to any such Estate as is specified in Number (2.), but whether subject to any Incumbrance or not, or in Numbers (3.) or (4.), and shall be a consenting and executing Party to the Lease, not being under Age.

(9.) Corporations Lay, Eleemosynary, and Collegiate, whether aggregate or sole; Provided, that no Lease made by any Municipal Corporation or Board of Guardians of the Poor shall be valid without the Licence in Writing in the Case of a Municipal Corporation of the Commissioners of Her Majesty's Treasury, and in the Case of such Board of Guardians of the Poor of the Poor Law Commissioners for Ireland, such Licence to be written on or annexed to the said Lease:

(10.) Trustees and Feoffees of Charitable Uses of a public Nature, and seised or possessed of an Estate in Fee Simple, Fee Farm, or other perpetual Interest:

(11.) Trustees under any Will or Settlement entitled in Fee Simple or for a perpetual Interest or to any Estate specified in

Number (4.), and having a Power to sell the same: Provided, however, that when such Power is to be exercised with the Consent of any Person no such Lease shall be valid without such Consent.

And with respect to Cases of Disability of Parties otherwise entitled to make Leases:

In Cases of Disability of Parties, Guardians, &c. may make Leases.

IV. In case any Person (not being a Trustee or Feoffee of charitable Uses of a public Nature) who would be entitled to make Leases under this Act or otherwise shall happen to be under any of the following Disabilities or Incapacities, the Power shall be exercised in his or her Name and on his or her Behalf in the following Manner: If under the Age of Twenty-one Years, by his or her Guardian appointed by Will or Settlement, or by the Court of Chancery; and if such Person have no Guardian, it shall be lawful for the Court of Chancery in Ireland, on Petition in a summary Way, to appoint a Guardian of such Person under Age, for the Purpose of executing any Lease under this Act, in the Manner aforesaid, and to change him from Time to Time, and the Power shall be executed by the Guardian so appointed: If lunatic or idiot, or non compos mentis, by the Committee of the Estate; and if there shall be no Committee of the Estate, or no Inquisition finding such Person idiot or lunatic, it shall be lawful for the Court of Chancery in Ireland, by Petition in a summary Way, to appoint a Guardian of such Person, for the Purpose of executing any Lease under this Act, and to change such Guardian from Time to Time, and the Power shall be executed as aforesaid by the Guardian so appointed: Provided always, that no Lease made under this Act of the Estate of any Person under Age or of unsound Mind or non compos mentis shall be valid without the Consent of the Court of Chancery, to be obtained in a summary Manner by Petition to the said Court of Chancery by any Party interested thereon.

The Purposes and Periods of Time for which Leases may be made under this Act shall be as follows:

Forms of Leases under this Act.

V. A Lease made by a Person empowered by this Act may be made of any Quantity of Land, not exceeding in the whole *Five* Acres, for a Site for a Place of Worship for such Congregation, and for the Residence of their Clergymen, Ministers, or Pastors, and for the Erection of a School or Schools and School Accommodation in connexion therewith, and for a Burial Ground for the Interment of its deceased Members, or for any One or more of such Purposes, and such Leases may be made in Fee Farm, or for any Term not exceeding Nine hundred and ninety-nine Years.

VI. Where

Provisions as to Leases made previous to the Act.

VI. Where any Lease or Grant shall have been made before the passing of this Act for any of the Purposes aforesaid, and for a Period less than the Term for which a Lease may be made under this Act, it shall be lawful for the Person enabled to make a Lease of such Land under this Act to accept a Surrender of such existing Lease or Grant, and make a new Lease under this Act of the same Land, or of the same Land and any other Land in conjunction therewith, provided that the entire Quantity comprised in such new Lease shall not exceed Five Acres.

Rent reserved in any Lease to be the best improved Rent.

VII. The Rent reserved in any Lease made under this Act shall be the best improved Rent that at the Time of making such Lease can be obtained or reasonably expected from a solvent Tenant without Fine or Consideration of any Kind: Provided always, that in case of the Surrender of an existing Lease, and the Grant of a new Lease, of the same Land, under Section Six, the Value of any Buildings, Erections, or Improvements on said Lands theretofore made for any of the Purposes aforesaid shall not be taken into account in estimating the Rent to be reserved in such new Lease.

Conditions, &c. of Leases to be specified.

VIII. Every Lease made under this Act shall specify the Purposes for which it shall be made, and shall imply the following Covenants, Conditions, and Agreements on the Part of the Lessee, his Heirs, Executors, and Administrators, with the Lessor, his Executors, Administrators, and Successors in Estate, and the same shall be as effectual and binding as if they were expressly inserted in such Lease:

That the Lessee shall pay, when due, the Rent reserved, and all Taxes and Impositions payable by the Tenant:

That the Lessee shall repair, maintain, and keep the demised Premises during the Term in good and substantial Repair, with all Buildings, Fixtures, and Improvements:

That the demised Premises shall be applied for no other Purposes than those expressed in the Lease, or of the like Nature, and in default thereof it shall be lawful for the Lessor and his Successors in Estate to re-enter:

That in case the said Lands shall not be used for any of the Purposes expressed in said Lease for a Period of *Three* Years, it shall be lawful for the Lessor and his Successors in Estate to re-enter:

That it shall be lawful for the Landlord and his Agent at all reasonable Times to enter on and inspect the Premises:

Also to re-enter in case of any unlawful Assignment or Subletting.

Reserved Rent and Covenants of Lease to enure to proper Owner.

IX. The Rents reserved and the Covenants and Conditions contained or implied in any Lease made under this Act shall enure to the Persons who for the Time being would, if such Lease had not been made, be entitled to the actual Possession of the Lands comprised in the said Lease, or to the Receipt of the Rents and Profits thereof, according to their Estates and Interests therein.

Lease to be by Indenture.

X. Every Lease made under this Act shall be by Indenture sealed and delivered by or on behalf of the Lessor in the Presence of One or more than One Witness, and a Counterpart of every such Lease shall be executed by the Lessee thereof.

And with respect to the Force and Efficacy of Leases to be made pursuant to this Act, be it enacted as follows:

Lease to be binding on Lessor, his Heirs and Successors in Estate.

XI. Every Lease made pursuant to the Provisions of this Act shall be valid and effectual to bind the Lessor, his Heirs, Executors, Administrators, Assigns, and Successors in Estate, and all Persons whomsoever deriving under the same Title or Settlement as that under which the Lessor derives, and notwithstanding any Entail, Law, or Custom to the contrary, and whether there be any leasing Power annexed or belonging to the Estate of such Lessor, but so as not to prejudice or interfere with any other Power of leasing to him belonging.

Informality in Proceedings not to affect the Lease.

XII. Where any Lease made in the intended Exercise of any supposed leasing Power conferred by this or any other Act of Parliament, or by any Settlement, shall be invalid by reason of the Lessor not having at the Time Power to make such Lease, and the Estate of such Lessor in the Lands comprised in such Lease shall have continued or shall have accrued and continued until after such Lease might have been lawfully granted, such Lease shall take effect out of such Estate, and be as valid as if it had been granted at such last-mentioned Time, provided such Lease had not been then already surrendered or relinquished.

Lease, in virtue of Power, valid though not expressed.

XIII. Where any Lease shall be made by a Lessor having a Power of leasing the Lands comprised in such Lease, and such Lease cannot take effect or have Continuance independently of such leasing Power, every such Lease shall take effect and be as valid as if the same were intended and had been expressed to have been granted in exercise of the said Power, although such Power be not referred to.

Grants of Lands.

A

BILL

To facilitate Grants of Lands and Tenements for the Purpose of Religious Worship and other Purposes connected therewith.

(*Prepared and brought in by Mr. Horsman, Mr. Attorney General for Ireland, and Mr. Solicitor General for Ireland.*)

Ordered, by The House of Commons, *to be Printed,* 26 *April* 1855.

[Bill 96.]

Under 1 *oz.*

A

B I L L

TO

Relieve the East India Company from the Obligation to maintain the College at Haileybury.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS, in consequence of the Regulations made or which may hereafter be made by the Board of Commissioners for the Affairs of India for the Admission of Persons to the Civil Service of the East India Company, under the Provisions of an Act of the Sixteenth and Seventeenth Victoria, intituled "An Act to provide for the Government of India," the Maintenance of the said Company's College at Haileybury will after a limited Period be no longer necessary: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble. 16 & 17 Vict. c. 95.

I. From and after the *Thirty-first Day of January of the Year One thousand eight hundred and fifty-eight* the said College shall be discontinued and closed. College to be discontinued.

II. No Person shall be admitted as a Student into the said College after the *Twenty-fifth Day of January in the Year One thousand eight hundred and fifty-six*. No Student to be admitted after 25th Jan. 1856.

III. Every

Students certified at the last Examination in 1857 to be qualified may be admitted to the Service of the Company.

III. Every Student of the said College at the Period of the last Examination in the Year *One thousand eight hundred and fifty-seven* shall be examined in the usual Manner for Admission to the said Company's Service, and all those who shall be certified by the Principal of the said College to be duly qualified in other respects may be admitted to the Service of the said Company, notwithstanding such Students may not have resided Four Terms at the said College.

Commissioners to determine Questions of Priority of Rank.

IV. It shall be lawful for the said Commissioners to determine any Question of Priority of Rank which may arise between Persons appointed to the said Service in respect of Vacancies which occurred prior to the Thirtieth Day of April One thousand eight hundred and fifty-four, and Persons appointed in respect of Vacancies which occurred on or after that Day.

Company may sell College.

V. The said Company shall, with the Approval of the said Commissioners, as soon as may be after the Discontinuance of the said College, sell and dispose thereof and of all Lands and Hereditaments attached thereto or, with the like Approval, may, at any Time after the *passing of this Act*, contract for the Sale and Disposal, of the said Premises from the *Thirty-first Day of January One thousand eight hundred and fifty-eight*; and the Proceeds of such Sale shall be received and held by the said Company in trust for Her Majesty, Her Heirs and Successors, for the Use of the Government of India.

Compensations.

VI. At any Time within *Six* Months before the closing of the said College, it shall be lawful for the said Company to take into consideration the Claims of the Officers and Servants of the said College whose Interests may be prejudicially affected by the Abolition of the said College, and, under the Control of the said Commissisioners, to grant such Compensations, Superannuations, or Allowances as shall appear reasonable, the Charge whereof shall be defrayed by the said Company out of the Revenues of India.

Haileybury College.

A

BILL

To relieve the East India Company from the Obligation to maintain the College at Haileybury.

(*Prepared and brought in by*
(*Mr. Vernon Smith and Mr. Danby Seymour.*)

Ordered, by The House of Commons, *to be Printed,*
21 *June* 1855.

[Bill 187.]

Under 1 *oz.*

A

BILL

THE

Better to secure the Property of Manufacturers of Iron, Steel, Cutlery, Edge Tools, Hardware, Gold, Silver and Silver-plated Britannia Metal, German Silver, Copper, and Brass Articles, and other Metals, Mother-of-pearl Shell, Tortoise Shell, Bone, Horn, Ivory, Leather, and Wood, and also for securing the Wages of the Workmen engaged in such Manufactures by extending the Provisions of the Act of the Sixth and Seventh Years of Her present Majesty, Chapter Forty, commonly called the "Woollen, &c. Manufactures Act," to the said Hardware and other Manufactures.

Preamble.

WHEREAS it is expedient to repeal so much of the following Acts of Parliament, namely, an Act of the Second Session holden in the First Year of Queen Anne, Chapter Eighteen, an Act of the Ninth Year of Queen Anne, Chapter Thirty, an Act of the Thirteenth Year of King George the Second, Chapter Eight, an

1 Ann. s. 2. c. 18., 9 Ann. c. 30., 13 G. 2. c. 8., 22 G. 2. c. 27., 17 G. 3. c. 56.

 Act

Act of the Twenty-second Year of King George the Second, Chapter Twenty-seven, and an Act of the Seventeenth Year of King George the Third, Chapter Fifty-six, as relates to the Manufactures of and in Iron and Leather, and to extend to such Manufactures respectively, and also to the Manufactures of and in Steel Cutlery, Edge Tools, Hardware, Gold, Silver, and Silver-plated Britannia Metal, German Silver, Copper, and Brass Articles and other Metals, Mother-of-pearl Shell, Tortoise Shell, Bone, Horn, Ivory, and Wood, and the Workmen employed therein, the Provisions of an Act of the Sixth and Seventh Years of Her present Majesty, Chapter Forty, intituled "An Act to amend the Laws for the Prevention of Frauds and Abuses by Persons employed in the Woollen, Worsted, Linen, Cotton, Flax, Mohair, and Silk Hosiery Manufactures, and for the further securing the Property of the Manufacturers and the Wages of the Workmen engaged therein:" Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

6 & 7 Vict. c. 40.

Repeal of certain Provisions in 1 Ann. sess. 2. c. 18., 9 Ann. c. 30. 13 G. 2. c. 8., 22G. 2. c. 27., and 17 G. 3. c. 56.

I. So much of the said Acts, namely, the Act of the Second Session holden in the First Year of Queen Anne, Chapter Eighteen; the Act of the Ninth Year of Queen Anne, Chapter Thirty; the Act of the Thirteenth Year of King George the Second, Chapter Eight, the Act of the Twenty-second Year of King George the Second, Chapter Twenty-seven; and the Act of the Seventeenth Year of King George the Third, Chapter Fifty-six, as relates to the Manufactures of and in Iron and Leather, or either of them, is hereby repealed.

Provisions of 6 & 7 Vict. c. 40. extended to Manufactures of Iron, &c.

II. All the Provisions and Enactments of the said Act of the Sixth and Seventh Years of Her present Majesty, Chapter Forty, except Section Thirty-four, shall extend and be applicable to the Manufacture of and in Iron, Steel, Cutlery, Edge Tools, Hardware, Gold, Silver, and Silver-plated Britannia Metal, German Silver, Copper, and Brass Articles and other Metals, and of and in Mother-of-pearl Shell, Tortoise Shell, Bone, Horn, Ivory, Leather, and Wood, or any of them, and to any Manufactures made of such Materials, whether the same be or be not mixed with each other, or with any other Materials, and to every Trade, Occupation, Operation, or Employment whatsoever connected with or incidental to such Manufactures respectively, and also to the Workmen employed in such Manufactures or any of them, as fully and effectually as if those Provisions and Enactments, except as aforesaid, had been re-enacted in this Act, and expressly extended and made applicable to such Manufactures and Workmen respectively; and the Penalty imposed by Section Twenty of the said Act shall extend to the obliterating, effacing, or altering the Owner's Name or Initials

Initials or other distinguishing Mark on any Tool or Instrument used or employed in any such Manufactures.

Act not to extend to Scotland or Ireland.

III. This Act shall not extend to Scotland or Ireland.

Short Title of Act.

IV. In citing this Act for any Purpose whatever it shall be sufficient to use the Expression "The Hardware Manufactures Act, 1855."

A

BILL

The better to secure the Property of Manufacturers of Iron, Steel, Cutlery, Edge Tools, Hardware, Gold, Silver, and Silver-plated Britannia Metal, German Silver, Copper, and Brass Articles and other Metals, Mother-of-pearl Shell, Tortoise Shell, Bone, Horn, Ivory, Leather, and Wood, and also for securing the Wages of the Workmen engaged in such Manufactures, by extending the Provisions of the Act of the Sixth and Seventh Years of Her present Majesty, Chapter Forty, commonly called the "Woollen, &c. Manufactures Act," to the said Hardware and other Manufactures.

(*Prepared and brought in by Mr. Hadfield, Mr. Roebuck, Mr. Muntz, and Mr. Scholefield.*)

Ordered, by The House of Commons, *to be Printed*, 15 *May* 1855.

[Bill 126.]

Under 1 *oz.*

Huddersfield Burial Ground Act Amendment Bill.

ARRANGEMENT OF CLAUSES.

Preamble.

Repeal of Section 16 of the Huddersfield Burial Ground Act, 1852; Sect. 1.

Expenses of Act to be defrayed out of Fees, &c.; 2.

[Bill 184.]

A

BILL

TO

Amend the Provisions of the Huddersfield Burial Ground Act, 1852.

WHEREAS the Commissioners for the Time being acting in execution of the Huddersfield Improvement Act, 1848, and the Huddersfield Burial Ground Act, 1852, have, in pursuance of the Powers contained in the said last-mentioned Act, purchased, enclosed, planted, embellished, and laid out a certain Piece of Ground in the said last-mentioned Act particularly mentioned and described as and for a Burial Ground, and have caused to be erected therein (in addition to certain other Buildings) Two suitable Chapels, one for the Performance of the Burial Service according to the Rites of the United Church of England and Ireland, and the other on the unconsecrated Portion of such Burial Ground, for the Performance of Funeral Service therein: And whereas the said Commissioners have procured One Half of the said Burial Ground, with the Chapel thereon, to be consecrated by the Lord Bishop of Ripon, within whose Diocese such Chapel and Ground are situate: And whereas the Section of the said Huddersfield Burial Ground Act, 1852, numbered 16 in the Copies of that Act printed by Her Majesty's Printers, and which relates to the Depth to which Graves should be dug in the said Burial Ground, the Number and Manner of Interments in each Grave, and fixing the Period which should Preamble.

elapse before re-opening any such Grave for further Interments therein, is unnecessarily stringent, and would be prejudicial to the proper Management of the said Burial Ground, and entail a considerable Expense upon the said Township of Huddersfield, and it is desirable that the said Section of the said last-mentioned Act of Parliament should be repealed: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Repeal of Sect. 16 of the Huddersfield Burial Ground Act, 1852.

I. The said Section of the said last-mentioned Act of Parliament shall be and the same is thereby repealed: Provided nevertheless, that nothing herein contained shall extend to relieve the said Commissioners from the Necessity of obtaining the Approval or Confirmation by the General Board of Health of any Regulations which by the said Huddersfield Burial Ground Act, 1852, may require such Approval or Confirmation.

Expenses of Act to be defrayed out of Fees, &c.

II. The Expenses of obtaining this Act, and all other Expenses incident thereto, shall be charged upon and defrayed out of the Fees and Sums of Money which shall be raised, charged, levied, or received under or by virtue of the said Huddersfield Burial Ground Act.

Huddersfield Burial Ground Act Amendment.

A

BILL

To amend the Provisions of the Huddersfield Burial Ground Act, 1852.

(*Prepared and brought in by Sir Benjamin Hall and Mr. Cowper.*)

Ordered, by The House of Commons, *to be Printed,* 21 *June* 1855.

[Bill 184.]

Under 1 *oz.*

A

BILL

FOR

Granting to Her Majesty an increased Rate of Duty on Profits arising from Property, Professions, Trades, and Offices.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal Subjects, the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled, towards raising the Supplies to defray the Expenses of the just and necessary War in which Your Majesty is engaged, have freely and voluntarily resolved to give and grant unto Your Majesty the Rate and Duty herein-after mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. From and after the *Fifth Day of April One thousand eight hundred and fifty-five*, there shall be charged, raised, levied, collected, and paid yearly unto and for the Use of Her Majesty, Her Heirs and Successors, in addition to the Rates and Duties chargeable under the Act passed in the last Session of Parliament, Chapter Twenty-four, Additional Rate of Income Tax to be charged from 5th April 1855.

four, for and in respect of all Property, Profits, and Gains chargeable under the several Acts in force relating to the Income Tax, either by Assessment or under any Contract of Composition or otherwise, the additional Rate and Duty of *Twopence* for every Twenty Shillings of the annual Value or Amount of all such Property, Profits, and Gains respectively; and every Person who shall be chargeable under or by virtue of the said several Acts in force, either by Assessment, Deduction, or otherwise, with any Rate or Duty in respect of his Property, Profits, or Gains, shall be charged in like Manner, and shall bear and pay, in respect of such his Property, Profits, or Gains, the full Amount of the additional Rate or Duty granted by this Act.

Duty to be assessed and raised under the Provisions of recited Acts.

II. The said Duty hereby granted shall be assessed, raised, levied, and collected under the Regulations and Provisions of the several Acts now in force relating to the Income Tax; and all Powers, Authorities, Rules, Regulations, Directions, Penalties, Clauses, Matters, and Things contained in or enacted by the said several Acts, and in force with respect to the Duties granted by the said first-mentioned Act, shall (so far as the same are or may be applicable consistently with the express Provisions of this Act) respectively be duly observed, applied, and put in execution for assessing, raising, levying, collecting, receiving, accounting for, and securing the said Duty hereby granted, and otherwise relating thereto, as if the same were particularly repeated and re-enacted, mutatis mutandis, in the Body of this Act, with reference to the said Rate and Duty hereby granted.

Continuance of Duties.

III. The Duties by this Act and the said Act of the last Session of Parliament respectively granted shall continue in force *during the present War and until the Sixth Day of April* which shall first happen after the Expiration of One Year from the Ratification of a definitive Treaty of Peace, and no longer: Provided always, that if the Period limited by this Act for the Continuance of the said Duties shall expire before the *Sixth Day of April One thousand eight hundred and sixty*, then, on and from and after the Expiration of the said Period, the several Rates and Duties granted by the Act passed in the Session of Parliament holden in the Sixteenth and Seventeenth Years of Her Majesty's Reign, Chapter Thirty-four, shall revive, and be payable during so much of the respective Terms limited by the said last-mentioned Act as shall be then unexpired.

Act to continue in force for Recovery of Arrears of Duty, &c.

IV. Provided always, That the said Rates and Duties shall not cease at the Time herein-before apppointed in that Behalf with respect to any Assessment which ought before then to have been made, but which shall not have been made and completed, nor with respect to

any

any Duty which shall have been assessed and shall then remain unpaid, nor with respect to any Penalty before then incurred, nor with respect to any Deduction of the said Duty or any Portion thereof authorized by Law to be made out of any Rent, Interest, or other annual Payment, nor with respect to any Penalty for refusing to allow any such Deduction, although such Refusal may be after the Time appointed as aforesaid, nor with respect to the Assessment of the Interest on Exchequer Bills becoming due in the Month of June next after the Time appointed for the ceasing of the said Duty, but all the Powers and Provisions of this Act, and of the several Acts herein mentioned or referred to, shall continue in force for making and completing all such Assessments as aforesaid, and for levying and recovering the Duties so assessed or to be assessed, and all Arrears of such Duties, and also for re-assessing the same in default of Payment, and for making and allowing such Deduction as aforesaid, and for the suing for, adjudging, and recovering any Penalty which shall have been or may be incurred.

A

BILL

For granting to Her Majesty an increased Rate of Duty on Profits arising from Property, Professions, Trades, and Offices.

(*Prepared and brought in by Mr. FitzRoy, The Chancellor of the Exchequer, and Mr. Wilson.*)

Ordered, by The House of Commons, *to be Printed*, 23 *April* 1855.

[Bill 86.]

Under 1 *oz.*

6 *July* 1855. 18 & 19 Vict.

A

BILL

FOR

Conferring the Elective Franchise upon Persons (not being Aliens) who are assessed to the Income Tax, but are not upon a Register of Electors for any Part of Great Britain and Ireland.

Preamble.

WHEREAS it is expedient to confer the Elective Franchise on Persons paying Income Tax: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Right of voting to be enjoyed by Persons charged to the Income Tax to the Amount of Forty Shillings a Year.

I. Every Male Person of full Age, and not subject to any legal Incapacity, being charged to any Duties which for the Time being may be payable to Her Majesty on Profits arising from Property, Professions, Trades, and Offices, amounting to not less than *Forty Shillings* for a Year, whether the same be paid by such Person directly or by some other Person as his Trustee, Mortgagor, or otherwise, shall be entitled to vote as herein-after mentioned; (that is to say,) where such Person shall reside in any County, or Riding, Parts, or Division of a County, in Great Britain or Ireland, elsewhere than within a City or Borough which shall return a Member or Members to serve in Parliament, or a Place sharing in the Election for a City or Borough, he shall, if duly registered, be entitled to vote in the Election of a

Knight or Knights of the Shire to serve in Parliament for such County, Riding, Part, or Division; and where such Person shall reside within any City or Borough, or any Place sharing in the Election for any such City or Borough, he shall, if duly registered, be entitled to vote in the Election of a Member or Members to serve in Parliament for such City or Borough.

Residence also required.

II. No such Person shall be so registered in any Year unless he shall have so resided for *Twelve* Calendar Months next previous to the last Day of July in such Year.

Not to be registered or to vote for more than One Place.

III. No Person having Two or more Places of Residence shall be entitled to be registered or to vote under this Act in respect of his Residence in more than One Place.

No Persons entitled to be reimbursed to vote.

IV. No Person who shall be charged to any of the said Duties on Profits arising from Property, Professions, Trades, and Offices, shall be entitled to vote in respect of any Sum so charged which he shall be so entitled as a Tenant, Trustee, or Mortgagor, or otherwise, to deduct, retain, or be reimbursed by any Person or Persons whomsoever.

No Person to be entitled to vote who shall have claimed Repayment of Duties.

V. No Person shall be entitled to be registered as a Voter under this Act in respect of the Charge of any Duties which he shall have been repaid or of which he shall have claimed Repayment, on the Ground of Exemption; and no Person having claimed to be registered as a Voter under this Act in respect of the Charge of any Income Tax shall be entitled to Exemption from such Duties, or to any Repayment on the Ground of such Exemption.

Nor to be registered if on any other Register in respect of any other Qualification.

VI. No Person shall be entitled to be registered as a Voter under this Act so long as his Name shall be legally upon the Register of Voters for any County, Division, Riding, City, Borough, or District of Burghs in Great Britain or Ireland in respect of any other Qualification.

Person giving Notice to proper Officer may be registered without Fee.

VII. Any Person giving Notice to the Officer whose Duty it is, under any Act of Parliament now in force, to make out any List or Register of Voters, or Persons claiming to be Voters, that he claims to be registered under this Act, shall be entitled to have his Name inserted in such List or Register without any Fee or Payment to such Officer, such Notice to be in the Form numbered 1. in the Schedule to this Act, or to a like Effect.

Certificate to be given upon Request to Persons

VIII. The Governor and Company of the Bank of England, the Governor and Company of the Bank of Ireland, the Commissioners for

for the Reduction of the National Debt, the East India Company, any Receivers appointed by the Court of Chancery, the Secretary or Managing Director of any public Company established by Royal Charter or by Act of Parliament, or of any Bank or Insurance Company which shall have been established *Two Years*, and duly and completely registered under the Provisions of the Joint Stock Companies Acts, and every Person by whom any Sum shall be retained from any other Person for Income Tax, shall, upon request, give or cause to be given to such Person as shall be charged with any Deduction for Income Tax a Certificate of the Amount thereof; and when such Person shall be a Trustee of the Fund in respect of which the Income Tax has been charged, such Governor, Commissioner, Receiver, Managing Director, or Secretary, shall, on Request, give or cause to be given a separate Certificate to such Trustee for each of his Cestuique Trusts for the Amount chargeable to them respectively by way of Income Tax, such Certificate to be in the Form numbered 2. in the Schedule to this Act, or to a like Effect; and every such Certificate, with the Endorsement by the Trustee thereon (if any), shall, upon all Occasions touching the Right or Title of such Cestuique Trusts to be registered as an Elector or to vote under this Act, be received in Evidence of such Charge; and any Person requiring Proof of the Signature or Quality of the Person or Persons whose Signature it bears, shall, if the same be duly verified, pay to the Person tendering the same in Evidence the Expenses consequent on such Verification.

charged with any Deductions for Income Tax.

Separate Certificates to be given by Trustees to each Cestuique Trust.

IX. Every Commissioner or Collector of Income Tax shall, on the Request of any Person charged with any Sum by way of Income Tax, and who shall have paid the same, give him, on request, a Receipt in the Form numbered 3. in the Schedule to this Act, or to the like Effect, for such Payment, separate and apart from any Receipt for other Taxes; and when such Person so charged shall be a Mortgagor or Trustee of the Property in respect of which such Income Tax has been charged, such Collector or Commissioner shall give to such Trustee, on request, a separate Receipt, in the Form aforesaid, for each and every of his Mortgagees or Cestuique Trusts of the Amount chargeable to each of them by way of Income Tax; and such Receipt, and the Endorsement thereon (if any) by such Mortgagor or Trustee, shall, upon all Occasions touching the Right or Title of such Mortgagee or Cestuique Trust to be registered as an Elector or to vote under this Act, be received in Evidence of such Charge and Payment; and any Person requiring Proof of the Signature or Quality of the Person or Persons whose Signature it bears, shall, if the same be duly verified, pay to the Person tendering the same in Evidence the Expenses consequent on such Verification.

Collectors of Taxes to give Receipts for Income Tax apart from Receipts for other Taxes.

Declaration to be made by Trustees and Mortgagors.

X. Any Person, being a Trustee or Mortgagor, who shall obtain any such Receipt or Certificate as aforesaid, shall, on the Request of any Person legally chargeable with the Income Tax mentioned therein, and for the Purpose of enabling him to be registered as a Voter in respect thereof, endorse on such Certificate a Declaration in the Form numbered 4. in Schedule to this Act, or to the like Effect, setting forth the Christian Name and Surname, Place of Abode, and Rank, Calling, or Occupation of the Person so chargeable, and declaring that the Person mentioned in the said Certificate or Receipt is in fact a Trustee or Mortgagor of the Property on which such Income Tax is charged, and that the Amount mentioned in the said Certificate or Receipt has been retained by such Trustee or Mortgagor from the Person named in or endorsed on the said Certificate or Receipt; and such Certificate or Receipt and Declaration shall on all Occasions touching the Right or Title of the Person named therein as beneficially entitled to be registered or to vote be received in Evidence thereof; and any Person requiring Proof of the Quality or Signature of the Person or Persons whose Signature the said Certificate or Receipt and Declaration bears, shall, if the same be duly verified, pay to the Person tendering the same in Evidence the Expenses of such Verification.

Persons giving Certificates falsely or without Authority, or forging the same, to be guilty of a Misdemeanor.

XI. If any Person shall wilfully give or make any such Certificate, as herein-before mentioned, falsely or without due Authority, or shall wilfully make any such Declaration as herein-before mentioned falsely, or shall forge, counterfeit, or falsify any such Certificate or Declaration, or any Signature thereto, or shall use or tender in Evidence any such false Declaration or Certificate, knowing the same to be false, or given or made without due Authority, or knowing the same or any Signature thereto to be forged, counterfeited, or falsified, he shall be guilty of a Misdemeanor.

Register of Voters to be conclusive Evidence of Right to vote.

XII. The Register of Voters for any County, City, or Borough in force at the Time of any Election for such County, City, or Borough, shall, so far as relates to any Qualification conferred by this Act, be conclusive Evidence at such Election that the Persons named in such Register are entitled to vote at such Election; and before any Committee appointed to try any Election Petition the said Register shall be conclusive Evidence that the Persons named in such Register were entitled to vote at such Election, excepting so far as such Right may be disputed on the Ground of any legal Incapacity which may have arisen in respect of such Person since the Publication of such List of Voters.

XIII. All

XIII. All Laws, Statutes, Usages, Provisions, and Penalties now in force respecting the Election of Members to serve in Parliament for Great Britain and Ireland shall be and remain and are hereby declared to be and remain in full Force, and shall be applicable to any Proceedings under this Act, so far as the said Laws. Statutes, and Provisions are not inconsistent with the same.

All Election Laws to remain in force except where inconsistent with this Act.

XIV. This Act shall come into operation on the *First Day of January One thousand eight hundred and fifty-five.*

SCHEDULES.

SCHEDULE No. 1.

FORM of NOTICE of CLAIM to be given to OVERSEERS.

To the Overseers of the Parish of
or Township of

I HEREBY give you Notice, That I claim to have my Name inserted in the List of Voters for the County of or for the Riding, Parts, or Division of the County of or for the City or Borough of (as the Case may be), and that the Particulars of my Qualification are stated below.

Dated the Day of .
Signature,

Christian and Surname of Claimant at full Length.	Place of Abode.	Nature of Qualification.

No. 2.

FORM of CERTIFICATE of DEDUCTION of INCOME TAX under Clause Nine in this Act.

I being an Officer of the Governor and Company of the Bank of England [or Ireland], or of Commissioners for the Reduction of the National Debt, or of the East India Company, duly authorized, or a Receiver appointed by the Court of Chancery, or the Secretary of the Company [set

[set forth the Name of the Company, and when and how established, &c.], hereby certify that the Sum of has been retained by me from [set forth Name, Address, &c.], for One {Year's / Half Year's} Income Tax charged on [state on what Fund the same is charged].

Dated this

Signature,

No. 3.

FORM of RECEIPT for INCOME TAX under Clause Ten of this Act.

I A.B. of, &c., being One of the {Commissioners / Collectors} of Income Tax for [state the Place, &c.], have received of C.D. of, &c., the Sum of for Income Tax assessed on Property in his Possession, situate at, &c. &c., in the County of the {Assessment / Duplicate Assessment} of which is in my Possession.

Dated

Signature,

No. 4.

FORM of DECLARATION by a TRUSTEE or MORTGAGOR under Clause Eleven of this Act, to be endorsed on Certificate of or Receipt for Income Tax.

I A.B. of, &c. [set forth the Christian Name and Surname, Place of Abode, and Rank, Calling, or Occupation] do hereby declare, That the Duty mentioned in this {Certificate / or / Receipt} as being {charged upon / paid by} me has been {retained by / deducted by / reimbursed to} me {from / by} C.D. of [set forth Christian Name and Surname, Place of Abode, and Calling], and that the said C.D. is beneficially entitled to the Fund upon which the same is charged.

Dated this Day of

Signature,

Franchise.

A

BILL

For conferring the Elective Franchise upon Persons (not being Aliens) who are assessed to the Income Tax, but are not upon a Register of Electors for any Part of Great Britain and Ireland.

(*Prepared and brought in by Major Reed, Mr. Apsley Pellatt, and Mr. Oliveira.*)

Ordered, by The House of Commons, *to be Printed,* 6 *July* 1855.

[Bill 230.]

Under 1 *oz.*

17 *July* 1855. 18 & 19 Vict.

A

BILL

INTITULED

An Act to extend the Period for applying for a Sale under the Acts for facilitating the Sale and Transfer of Incumbered Estates in Ireland.

WHEREAS an Act was passed in the Session of Parliament holden in the Twelfth and Thirteenth Years of the Reign of Her present Majesty, intituled "An Act further to "facilitate the Sale and Transfer of Incumbered Estates in Ireland:" And whereas a certain other Act was passed in the Session of Parliament holden in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, intituled "An Act to continue the Powers of "applying for a Sale of Lands under the Act for facilitating the Sale and "Transfer of Incumbered Estates in Ireland:" And whereas a certain other Act was passed in the Session of Parliament holden in the Sixteenth and Seventeenth Years of the Reign of Her present Majesty, intituled "An Act for continuing and amending the Act for facili- "tating the Sale and Transfer of Incumbered Estates in Ireland:" And whereas the extended Period within which such Applications under said Acts as are mentioned in Section Eleven of said lastly-recited Act might be made was limited to Two Years from the Twenty-eighth Day of July One thousand eight hundred and fifty-three:

Preamble.

12 & 13 Vict. c. 77.

15 & 16 Vict. c. 67.

16 & 17 Vict. c. 64.

Incumbered Estates (Ireland) Acts Continuance.

A

B I L L

INTITULED

An Act to extend the Period for applying for a Sale under the Acts for facilitating the Sale and Transfer of Incumbered Estates in Ireland.

(*Brought from the Lords* 17 *July* 1855.)

Ordered, by The House of Commons, *to be Printed*, 17 *July* 1855.

[Bill 254.]

Under 1 *oz.*

A

BILL

To indemnify such Persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and to extend the Time limited for those Purposes respectively.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS divers Persons who, on account of their Offices, Places, Employments, or Professions, or any other Cause or Occasion, ought to have taken and subscribed the Oaths or Assurance respectively appointed to be by such Persons taken and subscribed in and by an Act of the First Year of King George the First, Statute Two, Chapter Thirteen; or to have qualified themselves according to an Act of the Thirteenth Year of King Charles the Second, Statute Two, Chapter One; or according to an Act of the Twenty-fifth Year of King Charles the Second, Chapter Two; or according to an Act of the Thirtieth Year of King Charles the Second, Statute Two; or according to an Act of the Eighth Year of King George the First, Chapter Six; or according to an Act of the Ninth Year of King George the Second, Chapter Twenty-six; or according to an Act of the Eighteenth Year of King George the Second, Chapter Twenty; or according to an Act of the Sixth Year of King George the Third, Chapter Fifty-three; or according to an Act of the Ninth Year of King George the Fourth, Chapter Seventeen; or according to an Act of the Tenth Year of King George the Fourth, Chapter Seven, so far only as the said Act relates to any Civil or Military Offices or Places of Trust, or Places of Profit, or Corporate Offices; have, through Ignorance of the Law, Absence, or some unavoidable Accident, omitted to take and subscribe the Oaths and Assurance and make and subscribe the Declaration required by the said recited Acts or either of them, or otherwise to qualify themselves as aforesaid, within such Time and in such Manner as in and by the said Acts respectively is required, whereby they have incurred, or may be in danger of incurring, divers Penalties and Disabilities: For quieting the Minds of Her Majesty's Subjects, and for preventing any Inconvenience that might otherwise happen by means of such Omissions, be

Preamble.

1 G. 1. st. 2. c. 13.
13 C. 2. st. 2. c. 1.
25 C. 2. c. 2.
30 C. 2. st. 2.
8 G. 1. c. 6.
9 G. 2. c. 26.
18 G. 2. c. 20.
6 G. 3. c. 53.
9 G. 4. c. 17.
10 G. 4. c. 7.

be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Persons who have omitted to qualify themselves as required by the recited Acts indemnified, and allowed further Time.

I. All and every Person or Persons who, at or before the passing of this Act, hath or shall have omitted to take and subscribe the Oaths and Declarations, or otherwise to qualify him, her, or themselves, within such Time and in such Manner as in and by the said Acts or any of them is required, and who, after accepting any such Office, Place, or Employment, or undertaking any Profession or Thing, on account of which such Qualification ought to have been had and is required, before the passing of this Act, hath or have taken and subscribed the said Oaths or made the Declarations required by Law, or who, on or before the *Twenty-fifth Day of March One thousand eight hundred and fifty-six, or if Parliament be then sitting before the End of the then Session of Parliament*, shall take and subscribe the Oaths, Declarations, and Assurance respectively, in such Cases wherein by the said several Acts or any or either of them the said Oaths, Declarations, and Assurance ought to have been taken and subscribed, in such Manner and Form, and at or in such Place or Places, as are appointed in and by the said several Acts or any or either of them, shall be and are hereby indemnified, freed, and discharged from and against all Penalties, Forfeitures, Incapacities, and Disabilities incurred or to be incurred for or by reason of any Neglect or Omission, previous to the passing of this Act, of taking or subscribing the said Oaths or Assurance, or making or subscribing the said Declarations respectively, or taking or subscribing the Oath, according to the above-mentioned Acts or any of them, or any other Act or Acts; and such Person or Persons is and are and shall be fully and actually recapacitated and restored to the same State and Condition as he, she, or they were in before such Neglect or Omission, and shall be and be deemed and adjudged to have duly qualified him, her, or themselves, according to the above-mentioned Acts and every of them; and all Elections of, and Acts done or to be done by, any such Person or Persons, or by Authority derived from him, her, or them, are and shall be of the same Force and Validity as the same or any of them would have been if such Person or Persons respectively had taken the said Oaths or Assurance, and made and subscribed the said Declarations respectively, and taken and subscribed the said Oath, according to the Directions of the said Acts and every or any of them; and the Qualification of such Person or Persons qualifying themselves in manner and within the Time appointed by this Act shall be to all Intents and Purposes as effectual as if such Person or Persons had respectively taken the said Oaths and Assurance, and made and subscribed the said Declarations respectively, and taken and subscribed the said Oath, within the Time and in the Manner appointed by the several Acts before mentioned.

Indemnity to those who have omitted to make and subscribe the Oath and Declaration

II. And whereas several Persons well affected to Her Majesty's Government, and to the United Church of England and Ireland, have, through Ignorance of the Law, neglected, or been, by Sickness or other unavoidable Causes, prevented from taking and subscribing the Oaths and Declaration according to the Directions of an Act passed

in

in the Parliament of Ireland in the Second Year of Queen Anne, intituled "An Act to prevent the further Growth of Popery:" required by the Irish Act, 2 Anne, c. 6.

All Persons who have incurred any Penalty or Incapacity in the said recited Act mentioned, by neglecting to qualify themselves according to the said Act, shall be and are hereby indemnified, freed, and discharged from all Incapacities, Disabilities, Penalties, and Forfeitures incurred by reason of such Omission or Neglect as aforesaid; and no Act done by any of them, not yet avoided, shall be questioned or avoided by reason of such Omission or Neglect, but all such Acts shall be and are hereby declared to be as good and effectual as if such Persons respectively had taken and subscribed the said Oath, and made and repeated and subscribed the said Declaration, at such Time and Place and Manner as in the said Act is mentioned, anything in the said Act to the contrary notwithstanding: Provided always, that such Person or Persons do and shall take and subscribe the said Oaths, and make, repeat, and subscribe the said Declaration, in such Manner and Form and in such Place or Places respectively as are directed and appointed by the said last-recited Act, on or before the *Twenty-fifth Day of March One thousand eight hundred and fifty-six, or if Parliament be then sitting before the End of the then Session of Parliament.*

III. Provided always, That this Act, or anything herein contained, shall not extend or be construed to extend to indemnify any Person against whom final Judgment shall have been given in any Action of Debt, Bill, Plaint, or Information in any of Her Majesty's Courts of Record, for any Penalty incurred by having neglected to qualify himself within the Time limited by Law. Not to indemnify Persons against whom final Judgment has been given.

IV. Provided also, That nothing contained in this Act shall extend or be construed to extend to exempt any Justice of the Peace within Great Britain from the Penalties to which he is subject for acting as such without being possessed of the Qualification required by the Laws now in force. Not to exempt Justices acting without legal Qualification.

V. And whereas the Appointment of divers Clerks of the Peace, Town Clerks, and other public Officers, and the Admission of divers Members and Officers of Cities, Corporations, and Borough Towns, in Great Britain and Ireland, or the Entries of such Admissions in the Court Books, Rolls, or Records of such Cities, Corporations, and Borough Towns, which by several Acts are directed and required to be stamped, may not have been provided, or the same not stamped, or may have been lost or mislaid: Admissions to Corporations may be stamped after the Time allowed.

For the Relief of such Persons whose Appointments and Admissions or the Entries of whose Admissions as aforesaid may not have been provided, or not duly stamped, or where the same have been lost or mislaid, it shall and may be lawful to and for such Persons in Great Britain or Ireland, on or before the *Twenty-fifth Day of March One thousand eight hundred and fifty-six, or if Parliament be then sitting before the End of the then Session of Parliament,* to provide or cause to be provided Appointments and Admissions, or Entries of Admissions, as aforesaid, duly stamped, or in case where such Appointments, Admissions, or Entries of Admissions as aforesaid have been made or provided, but have not been duly stamped, to produce

such Appointments, Admissions, or Entries of Admissions as aforesaid to the Commissioners of Inland Revenue, to be duly stamped, which such Commissioners are hereby authorized and empowered and required to duly stamp, on Payment of *double* the Amount of the Duties first payable or to have been paid on such Appointments, Admissions, or Entries as aforesaid, without any other Fine or Forfeiture thereon; and in order to denote the said Duties the said Commissioners are hereby authorized and empowered to use such Stamps as shall have been heretofore provided to denote any former Duties on stamped Vellum, Parchment, and Paper, or to cause new Stamps to be provided for that Purpose, and to do all other Things necessary for putting this Act in execution, in the like and in as full and ample Manner as they or the major Part of them are authorized to put in execution any former Law concerning stamped Vellum, Parchment, and Paper; and such Persons so providing Appointments, Admissions, or Entries of Admissions as aforesaid, duly stamped, or procuring the same to be duly stamped in manner aforesaid, are and shall be hereby confirmed and qualified to act as Clerk of the Peace, Town Clerk, and other public Officer, or Member or Members, Officer or Officers of such Cities, Corporations, and Borough Towns respectively, to all Intents and Purposes, and shall and may hold and enjoy and execute such Office, or any other Office or Offices into which he or they hath or have been elected, notwithstanding his or their Omission, or the Omission of any of their Predecessors in such Cities, Corporations, or Borough Towns as aforesaid, and shall be indemnified and discharged of and from all Incapacities, Disabilities, Forfeitures, Penalties, and Damages by reason of any such Omission; and none of his or their Acts shall be questioned or avoided by reason of the same.

Not to restore Persons to any Office avoided by Judgment.

VI. Provided always, That this Act or anything herein contained shall not extend or be construed to extend to restore or entitle any Person or Persons to any Office or Employment, Benefice, Matter, or Thing whatsoever, already actually avoided by Judgment of any of Her Majesty's Courts of Record already legally filled up and enjoyed by any other Person, but such Office or Employment, Benefice, Matter, or Thing, so avoided or legally filled up and enjoyed, shall be and remain in and to the Person or Persons who is or are now or shall at the passing of this Act be legally entitled to the same, as if this Act had never been passed.

General Issue.

VII. In case any Action, Suit, Bill of Indictment, or Information shall after the passing of this Act be brought, carried on, or prosecuted against any Person or Persons hereby meant or intended to be indemdified, recapacitated, or restored, for or on account of any Forfeiture, Penalty, Incapacity, or Disability whatsoever incurred or to be incurred by any such Neglect or Omission, such Person or Persons may plead the General Issue, and upon their Defence give this Act and the special Matter in Evidence upon any Trial to be had thereupon.

Indemnity.

A

BILL

To indemnify such Persons in the United Kingdom as have omitted to qualify themselves for Offices and Employments, and to extend the Time limited for those Purposes respectively.

(Prepared and brought in by Mr. Cowper and Sir George Grey.)

Ordered, by The House of Commons, *to be Printed,* 22 *June* 1855.

[Bill 191.]

Under 1 *oz.*

3 *May* 1855. 18 Vict.

A

BILL

TO

Enable Infants, with the Approbation of the Court of Chancery, to make binding Settlements of their Real and Personal Estate on Marriage.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

Preamble.

WHEREAS great Inconveniences and Disadvantages arise in consequence of Persons who marry during Minority being incapable of making binding Settlements of their Property: For Remedy whereof be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Infants may, with the Approbation of the Court of Chancery, make valid Settlements or Contracts for Settlements of their Real and Personal Estate upon Marriage.

I. From and after the *passing of this Act* it shall be lawful for every Infant upon or in contemplation of his or her Marriage, with the Sanction of the Court of Chancery, to make a valid and binding Settlement or Contract for a Settlement of all or any Part of his or her Property, whether Real or Personal, and whether in Possession, Reversion, Remainder, or Expectancy; and every Conveyance and Assignment of such Real or Personal Estate, or Contract to make a Conveyance or Assignment thereof, executed by such Infant, with the Approbation of the said Court, for the Purpose of giving Effect to such Settlement, shall be as valid and effectual as if the

Person executing the same were of the full Age of Twenty-one Years.

The Sanction of the Court of Chancery to be given upon Petition.

II. The Sanction of the Court of Chancery to any such Settlement or Contract for a Settlement may be given, upon Petition presented by the Infant or his or her Guardian, in a summary Way, without the Institution of a Suit.

Infants Marriage.

A

BILL

To enable Infants, with the Approbation of the Court of Chancery, to make binding Settlements of their Real and Personal Estate on Marriage.

(*Prepared and brought in by Mr. Malins and Mr. Whiteside.*)

Ordered, by The House of Commons, *to be Printed,* 3 *May* 1855.

[Bill 104.]

Under 1 *oz.*

25 *June* 1855. 18 & 19 Vict.

A

BILL

[AS AMENDED BY THE LORDS]

INTITULED

An Act to enable Infants, with the Approbation of the Court of Chancery, to make binding Settlements of their Real and Personal Estate on Marriage.

[Note.—The Words in Red Ink were inserted by the Lords.]

WHEREAS great Inconveniences and Disadvantages arise in consequence of Persons who marry during Minority being incapable of making binding Settlements of their Property: For Remedy whereof be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Infants may, with the Approbation of the Court of Chancery, make valid Settlements or Contracts for Settlements of their Real and Personal Estate upon Marriage.

I. From and after the passing of this Act it shall be lawful for every Infant upon or in contemplation of his or her Marriage, with the Sanction of the Court of Chancery, to make a valid and binding Settlement or Contract for a Settlement of all or any Part of his or her Property, or Property over which he or she has any Power of Appointment, whether Real or Personal, and whether in Possession, Reversion, Remainder, or Expectancy; and every Conveyance, Appointment, and Assignment of such Real or Personal Estate, or Contract to make a Conveyance, Appointment, or Assignment thereof, executed by such Infant, with the Approbation of the said Court,

for the Purpose of giving Effect to such Settlement, shall be as valid and effectual as if the Person executing the same were of the full Age of Twenty-one Years: Provided always, that this Enactment shall not extend to Powers of which it is expressly declared that they shall not be exercised by an Infant.

In case Infant die under Age, Appointment, &c. to be void.

Provided always, That in case any Appointment under a Power of Appointment, or any disentailing Assurance, shall have been executed by any Infant Tenant in Tail under the Provisions of this Act, and such Infant shall afterwards die under Age, such Appointment or disentailing Assurance shall thereupon become absolutely void.

The Sanction of the Court of Chancery to be given upon Petition.

II. The Sanction of the Court of Chancery to any such Settlement or Contract for a Settlement may be given, upon Petition presented by the Infant or his or her Guardian, in a summary Way, without the Institution of a Suit; and if there be no Guardian, the Court may require a Guardian to be appointed or not, as it shall think fit; and the Court also may, if it shall think fit, require that any Persons interested or appearing to be interested in the Property should be served with Notice of such Petition.

Not to apply to Males under 20, or Females under 17 Years of Age.

Provided always, That nothing in this Act contained shall apply to any Male Infant under the Age of Twenty Years, or to any Female Infant under the Age of Seventeen Years.

Infants Marriage.

A

B I L L

[AS AMENDED BY THE LORDS]

INTITULED

An Act to enable Infants, with the Approbation of the Court of Chancery, to make binding Settlements of their Real and Personal Estate on Marriage.

Ordered, by The House of Commons, *to be Printed*, 25 *June* 1855.

[Bill 197.]

Under 1 *oz.*

Inland Fisheries (Ireland) Bill.

ARRANGEMENT OF CLAUSES.

Repeal of Statutes passed since 1842; Sect. 1.
No Acts repealed by Act of 1842 but those therein specified; 2.
Retiring Pension to Commissioners of Fisheries; 3.
Revival of repealed Part of a Local Act of 28 Hen. 8. c. 22. as to Destruction of Spawn, &c. in Weirs on the Barrow, &c.; 4.
Justices at Quarter Sessions to appoint Conservators for Salmon; 5.
And to fix Close Season for Salmon and Salmon Trout; 6.
Mode of fixing it as to Rivers forming the Boundaries of Two Counties; 7.
If Justices of such Two Counties cannot agree, Justices of next County to fix it; 8.
Penalty on throwing noxious Materials into Water for Purpose of taking or injuring Salmon; 9.
Penalty on having in possession Fry of Salmon, &c., or Salmon caught during Close Season; 10.
Illegal Nets and Engines to be destroyed, and illegal Dams, &c. to be removed; 11.
Offences on a River forming a Boundary how to be cognizable; 12.
Recovery of Penalties; 13.
Justices may grant Warrants for apprehending Offenders; 14.
Penalties may be sued for; 15.
Form of Conviction; 16.
Persons convicted under this Act not to be prosecuted under any other; 17.
Appeal; 18.
Limitation of Actions and other Proceedings; 19.

(Ireland.)

A

BILL

TO

Assimilate the Law as to the Inland Fisheries of Ireland to that of England.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS it is expedient to assimilate the Law as to the Inland Fisheries of Ireland to that of England: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. The several Acts herein-after mentioned; (that is to say,) Repeal of Irish Statutes:

An Act passed in the Sixth Year of the Reign of Her Majesty, Chapter One hundred and six, intituled "An Act to regulate the "Irish Fisheries;" 5 & 6 Vict. c. 106.

An Act passed in the Eighth Year of Her Majesty, Chapter One hundred and eight, intituled "An Act to amend an Act of the "Sixth Year of Her present Majesty, intituled 'An Act to regu- "'late the Irish Fisheries,' and to empower the Constabulary "Force to enforce certain Provisions respecting the Irish "Fisheries;" 7 & 8 Vict. c. 108.

An Act passed in the Ninth Year of Her Majesty, Chapter One hundred and eight, intituled "An Act for the further Amendment 8 & 9 Vict. c. 108.

" of an Act of the Sixth Year of Her present Majesty, for regu-
" lating the Irish Fisheries ;"

9 & 10 Vict. c. 114. An Act passed in the Tenth Year of Her Majesty, Chapter One hundred and fourteen, intituled " An Act for the further Amend-
" ment of an Act of the Sixth Year of Her present Majesty, for
" regulating the Irish Fisheries ;"

11 & 12 Vict. c. 92. An Act passed in the Twelfth Year of Her Majesty, Chapter Ninety-two, intituled " An Act for the Protection and Improve-
" ment of the Salmon, Trout, and other Inland Fisheries of
" Ireland ;"

13 & 14 Vict. c. 88. And also an Act passed in the Fourteenth Year of Her Majesty, Chapter Eighty-eight, intituled " An Act to amend the Law
" relating to Engines used in the Rivers and on the Sea Coast of
" Ireland for the taking of Fish ;"

See 5 & 6 Vict. s. 101. c. 106. Shall be and are hereby repealed, save and except as to any Offences, Penalties, or Matters committed, incurred, or done, or which may be committed, incurred, or done, against or under the Provisions of the said Acts or any of them before the passing of this Act, all which Offences shall be dealt with, considered, and punished, and all such Penalties levied, and all such Matters deemed good, valid, and effectual, to all Intents and Purposes as if this Act had not been passed.

No Acts repealed by 5 & 6 Vict. c. 106. but such as are therein specially mentioned. II. Provided always, and it is hereby declared and enacted, That neither any Part of the Great Charter relating to Rivers and Weirs, nor any other Enactment, Public and General, or Local and Personal, shall be deemed to have been repealed by the said Act of the Sixth Year of Her Majesty, except such as are therein specifically enumerated and designated by their respective Titles and the Years of the Reigns in which they were respectively passed.

Retiring Pension for Commissioners of Irish Fisheries. III. It shall be lawful for the Commissioners of Her Majesty's Treasury to pay to each of the existing Commissioners of the Irish Fisheries during his Life such Retiring Pension as may not exceed in Amount - his present Salary, such Retiring Pension to be paid out of any Money which may be hereafter voted for that Purpose.

Revival of Part of 28 H. 8. c. 22. (Irish and Local), relating to the Destruction of Salmon Fry in Wears upon the Barrow, Nore, Suir, and Rye. IV. And whereas the said Act of the Sixth Year of Her Majesty repealed " so much of an Act passed in the Parliament of Ireland in
" the Twenty-eighth Year of the Reign of King Henry the Eighth,
" intituled ' An Act for the Weirs upon the Barrow and other Waters
" in the County of Kilkenny,' as relates to the destroying of Salmon
" Fry therein ;" and it is expedient to revive the Parts so repealed: The same shall be and are hereby revived and in full Force and Effect.

V. It

Close Season. 58 G. 3. c. 43. s. 1.

V. It shall be lawful for the Justices of the Peace assembled at any General or Quarter Sessions of the Peace from Time to Time to appoint Conservators or Overseers for the Preservation of Salmon and Salmon Trout, and Fish of the Salmon Kind, and the Brood, Spawn, and Fry thereof, and preventing the Destruction thereof, and enforcing for that Purpose the Provisions of this Act within the Limits of the Jurisdiction of such Justices, and within the Limits of which they shall be so appointed.

Justices at Sessions to appoint Conservators of Rivers.

Id. s. 2.

VI. It shall be lawful for the Justices of the Peace acting for the several Counties at their several Quarter Sessions of the Peace, and they are hereby required, at the Request of any Person, such Person having first given Notice in some Newspaper usually circulated within the County of his Intention to apply to the said Quarter Sessions in that Behalf, to fix certain Days, not exceeding *One hundred and fifty* Days in each Year, for each River and its tributary Streams within their respective Counties, to be Fence Days for the several Rivers respectively, during which Time it shall not be lawful for any Person whatever to take, kill, or destroy, or attempt to take, kill, or destroy, any Salmon or Salmon Trout, or Fish of the Salmon Kind, or any Brood, Spawn, or Fry of such Fish; and the said Justices are hereby further empowered at any General Quarter Sessions to vary annually the Number of such Days, and the Periods at which they shall commence, as they shall think fit.

And to fix Periods in which Salmon shall not be taken.

Mode of fixing Fence Days as to Parts of Rivers between or forming Boundary of Two adjoining Counties. 6 & 7 Vict. c. 33. s. 3.

VII. Wheresoever the Course of any River to which the Provisions of this Act apply shall run between or form the Boundary of Two adjoining Counties, it shall be lawful for the Justices of the Peace acting for either of such Counties, at their Quarter Sessions of the Peace, upon the Refusal or Neglect of the Justices of the Peace acting for such other adjoining County to fix certain Days according to the Provisions of this Act to be Fence Days for such Part of any such River, themselves to fix certain Days as Fence Days, during which it shall not be lawful for any Person or Persons whatsoever to take, kill, or destroy, or attempt to take, kill, or destroy any Salmon, Salmon Trout, or Fish of the Salmon Kind, or any Brood, Spawn, or Fry of such Fish, in any Portion of such River as runs between or forms the Boundary of such Two Counties.

If Justices of any such Two Counties cannot agree, the Justices of next adjoining County

VIII. In case the Justices of the Peace acting for such Two adjoining Counties should not fix the same Days as Fence Days for such Part of any River as runs between or forms the Boundary of the Two Counties, the Clerk of the Peace for each County respectively shall give Notice to the Clerk of the Peace of the County next adjoining

to fix the Days. Id. s. 4.

through which the lower Course of the River shall entirely pass, or if there shall be no such County, then to the Clerk of the Peace of the County next adjoining through which the upper Course of the River shall entirely have passed, of the Days which have been proposed as Fence Days by the Justices of the Peace for such Two adjoining Counties as aforesaid; and it shall thereupon be lawful for the Justices of the Peace acting for such next adjoining County through which the Course of the River shall entirely pass or have passed, as the Case may be, and they are hereby required, at their next Quarter Sessions, to fix certain Days as Fence Days for any Part of sch River as runs between or forms the Boundary of such adjoining Counties: Provided always, that the first of such Fence Days shall be some Day between the Days proposed by such adjoining Counties for the Commencement of such Fence Days, and the last of such Days shall be a Day between the Days proposed by the said adjoining Counties for the Determination of such Fence Days.

58 G. 3. c. 43. s. 3. Penalty on Persons destroying Salmon, or the Brood, Spawn, or Fry thereof.

IX. If any Person shall at any Time hereafter pursue, take, kill, or destroy, or seek or endeavour to take, kill, or destroy, pursue, hurt, or injure, any Salmon or Salmon Trout, or Fish of the Salmon Kind, by laying or using any hot Lime, or Filth, or Material or Drug or Weed pernicious to Fish, or using any Water in which any Green Lint or Flax has been steeped, or letting off stagnated Water or any Water impregnated with any Material or Drug or Weed pernicious to Fish, or if any Person shall use or employ any such Means as aforesaid, or use any Fire or Light or White Object, or lay down any kind of Net, Engine, or Device, or wilfully do or commit or cause to be done or committed any Act whatsoever in any River, Water, Rivulet, Stream, Milldam, Millsluice, Cutpool, or Pond communicating therewith, for the Destruction of the Brood, Spawn, or small Fry of Salmon therein (Angling excepted); or if any Person shall hereafter make, erect, or set any Bank, Dam, Hedge, or Stank, Net or Nets, or place any Fire or Fires, Light or Lights, or any White Object or Objects, so that the young Fry or young Salmon be prevented from going down from such Rivers, Rivulets, or other Waters communicating therewith as aforesaid, or any of them, every such Person shall for every such First Offence forfeit any Sum not exceeding *Ten Pounds* nor less than *Five Pounds*, and for every Second and subsequent Offence any Sum not exceeding *Fifteen Pounds* nor less than *Ten Pounds*, at the Discretion of the Justice or Justices before whom the Offender shall be convicted, and also forfeiting all the Fish, Spawn, Brood, or Fry so taken, and all the Nets, Weapons, Lines, Instruments, Boats, Devices, or Things used in the taking thereof.

X. No Person shall upon any Pretence whatsoever at any Time take, kill, or destroy, or have in his or her Possession, either on the Water or on the Shore, or shall bring to Shore, or cry or carry about, sell, offer, or expose to or for Sale, or shall exchange for any Goods Matter, or Thing, any Spawn, Fry, or Brood of Fish, or any Kepper or Shedder Salmon being unseasonable Salmon commonly called old Salmon, or any Salmon or Salmon Trout or Fish of the Salmon Kind caught in any River, or any tributary Stream thereof during the Periods when Fishing for Salmon or Salmon Trout or Fish of the Salmon Kind is prohibited under the Provisions of any Law now in force, or when the same shall be prohibited by any Order to be made by the Justices at their Sessions or otherwise as herein provided; and it shall be lawful for any Conservator or Overseer thereof, or any other Person under the Authority of this Act, to take and seize all or any such Spawn, Fry, or Brood of Fish, or such other Fish as aforesaid, wherever the same shall be found, together with all Baskets and Package in which the same shall be so found or taken, and to deliver the Person on whom the same may be found to a Constable or other Peace Officer; and after every such Seizure shall be made, the Spawn, Fry, or Brood, or other Fish as aforesaid, together with the Baskets and Package in which the same shall be so seized, shall be delivered into the Hands of some Constable or other Peace Officer; and every such Constable or other Peace Officer is hereby authorized and required to take every such Offender with whom he shall be so charged for any such Offence into his Custody, and also the Spawn, Fry, or Brood of Fish, and such other Fish as aforesaid, and all Baskets and Packages in which the same shall be so seized, and which shall be delivered to such Constable or other Peace Officer as aforesaid, and to carry such Offender, and all such Spawn, Fry, or Brood of Fish, and such other Fish as aforesaid, together with the Baskets and Package as aforesaid, which shall have been delivered to any such Constable or other Peace Officer, with all convenient Speed before some Justice or Justices or Magistrate of the County, City, or Place where the Offence shall be committed, for such Offender to be dealt with according to Law; and on the Conviction of any such Offender or Offenders for any such Offence before any such Justice or Justices or Magistrate as aforesaid, every such Offender shall forfeit all and every such Spawn, Fry, or Brood of Fish, and Fish out of Season which shall be so seized, together with all Baskets or Package in which the same shall be so seized; and all such Spawn, Fry, or Brood of Fish, or such other Fish as aforesaid, together with such Baskets and Package in which the same shall have been so seized as aforesaid, shall, by Order of the Justice or Justices before whom the same shall be so brought, be delivered to the Person or Persons who shall have so seized the same, and shall prosecute to Conviction any such Offender; and every Offender who shall be so convicted

1 G. 1. stat. 2. c. 18. s. 7. 58 G. 3. c. 43. s. 4. 6 & 7 Vict. c. 33. s. 7. 13 & 14 Vict. c. 26.

Penalty on Persons taking, selling, &c.

Spawn, Fry, &c. at any Time, or Salmon during Close Season.

Lawful for any Person to take the Spawn, &c. and deliver the Offender into the Custody of a Constable.

as aforesaid of any such Offence shall besides forfeit and pay for every such Offence any Sum not exceeding *Ten Pounds* nor less than *Five Pounds.*

Illegal Nets and Engines to be destroyed, and illegal Dams, &c. to be removed. 1 G. 1. stat. 2. c. 18. ss. 6. 14.

XI. When an illegal Net or any other illegal Engine or Device shall be forfeited, the Justice before whom the Person forfeiting it shall be convicted shall order it to be seized and immediately cut in Pieces or otherwise destroyed in his Presence; and whenever any Person shall be convicted of having illegally made, erected, or set any Bank, Dam, Hedge, Stank, or Net, the Justice before whom he shall be convicted shall cause such Bank, Dam, Hedge, Stank, or Net to be demolished and removed at the Charges of the Offender, such Charges, if not paid down on Conviction, to be levied in the same Manner as any Penalty is herein appointed to be levied.

Offences committed in a River forming a Boundary how to be cognizable. 6 & 7 Vict. c. 33. s. 5.

XII. Any Offence against the Provisions of this Act committed by any Person whatsoever in such Part of any River as runs between or forms the Boundary of Two adjoining Counties shall be cognizable by any Justice or Justices of the Peace, as the Case may require, acting for either One of such Counties.

Recovery of Penalties. 58 G. 3. c. 43. s. 6.

XIII. Every pecuniary and other Penalty and Forfeiture by this Act imposed may be sued for, recovered, and adjudged, and every Offence against this Act heard and determined, by and before any One or more Justice or Justices of the Peace or Magistrate for the County, Shire, Division, City, or Place wherein any Offender against this Act shall be or reside, or wherein or near to or on the Coast of which the Offence or Offences shall be committed, by and upon the Oath or Affirmation of One or more credible Witness or Witnesses, or by the Confession of the Party or Parties, which Oath or Oaths, Affirmation or Affirmations, every such Justice of the Peace and other Magistrates aforesaid are hereby authorized, empowered, and required to administer accordingly; and in case any Person who shall be convicted of any Offence or Offences against this Act shall not immediately upon such Conviction pay down the Penalty or Penalties, together with such Costs of Suit or Prosecution in which he, she, or they shall have been so convicted or ordered to pay as aforesaid, into the Hands of the Justice or Justices of the Peace or Magistrate as aforesaid by and before whom he or she shall have been so convicted, or other Person by them or any of them authorized to receive the same, in order that the same may be disposed of and distributed according to the Directions of this Act, it shall be lawful for any such Justice or Justices of the Peace or Magistrate

trate aforesaid to order any Constable or other Peace Officer to take the Charge of and keep in Custody any such Person so convicted; and immediately thereupon every such Justice or Justices of the Peace or Magistrate is hereby authorized, empowered, and required to grant his or their Warrant or Warrants in due Form of Law, under his or their Hand and Seal or Hands and Seals, and thereby commit every such Offender to the Common Gaol or House of Correction for the County, Shire, Division, City, or Place for which such Justice or Justices or Magistrates aforesaid shall act, for such Time or Times as herein-after mentioned, unless the said Penalty or Penalties and Costs shall respectively be sooner paid; or otherwise such Justice or Justices of Peace or Magistrate shall and may grant his or their Warrant or Warrants, in due Form of Law, under his or their Hand and Seal or Hands and Seals, to levy and recover the said Penalty and Penalties and Costs by Distress and Sale of the Offender's Goods and Chattels; and all Penalties and Forfeitures which shall be so paid or levied as aforesaid shall from Time to Time be paid, applied, and disposed of as follows; (that is to say,) *One Moiety* thereof to the Informer or Informers, and the *other Moiety*, after defraying all Costs, Charges, and Expenses attending the Prosecution and the levying and recovering of the Penalty, to the Guardians of the Poor of the Union where the Offence or Offences shall have been committed; and the Overplus of the Money levied remaining (if any there be) after any Penalty or Penalties, and all Costs, Charges, and Expenses attending the levying and recovering thereof are deducted, (which Costs, Charges, and Expenses shall always be taxed, settled, and ascertained by and before the Justice or Justices of the Peace or Magistrate by or before whom any such Offender shall be convicted,) shall on Demand be returned to the Owner or Owners of the Goods and Chattels so distrained; and in case sufficient Distress or Distresses shall not be found, or such Penalty or Penalties and Costs shall not be immediately paid, then it shall be lawful for any such Justice or Justices of the Peace or Magistrate, and he and they is and are hereby respectively authorized, empowered, and required, for the First Offence to commit every such Offender or Offenders to such Gaol or House of Correction as aforesaid for any Time not exceeding *Four* Months nor less than *Two* Months, for the Second Offence any Time not exceeding *Eight* Months nor less than *Six* Months, and for the Third and every other Offence for any Time not exceeding *Twelve* Months nor less than *Eight* Months, there to be kept at Hard Labour, and be and remain, without Bail or Mainprise.

Justices, on receiving Information, may grant Warrants for apprehending Offenders. Id. s. 7.

XIV. It shall and may be lawful for any Justice or Justices of the Peace or Magistrate, or any of them, and they are hereby required, upon Information being made to him or them upon Oath against any Person or Persons who shall or may offend against anything contained in this Act, to grant his or their Warrant or Warrants under his or their Hand and Seal or Hands and Seals, to apprehend any Person or Persons so offending, and cause such Offender or Offenders to be brought before him or them or some other such Justice or other Magistrate; or it shall and may be lawful to and for any such Justice or Justices or other Magistrates as aforesaid, upon any Information made without Oath, to grant his or their Summons or Summonses against the Party charged with any such Offence or Offences, or for any Witness or Witnesses to prove any such Offence or Offences as aforesaid; and if any such Person or Persons who shall be duly summoned shall neglect or refuse to appear at the Time and Place appointed by such Summons or Summonses, every such Justice or Justices of the Peace shall and may, upon Oath being made of the Person or Persons being so duly summoned, grant his or their Warrant or Warrants under his or their Hand and Seal or Hands and Seals to apprehend and bring before him and them or some other such Justice or Magistrate as aforesaid the Party or Parties who shall neglect or refuse to appear after being duly summoned as aforesaid, and such Justice or Justices or other Magistrates aforesaid shall inquire into, hear, and determine the Matter of every such Offence or Offences in a summary Way.

Penalties may be sued for. Id. s. 9.

XV. Every pecuniary Penalty and Forfeiture imposed by this Act may be recovered in a summary Manner, according to the Provisions of this Act, or may be sued for and recovered, together with full Costs of Suit, by and to the only proper Use and Behoof of any Person who shall inform or sue for the same, in any of Her Majesty's Courts of Record at Dublin, by Action of Debt, Plaint, or Information, or by Civil Bill in the Court of the Assistant Barrister for the County, Division, or Place where the Offence shall be committed, subject to the like Appeal to the Judges of Assize as in all other Cases.

Form of Conviction. Id. s. 10.

XVI. Every Conviction of every Offender against this Act shall be certified by the Justice or Justices of the Peace by and before whom the same shall be made to the General Quarter Sessions of the Peace to be held in and for the County, Riding, Division, City, or Place where the Offender or Offenders shall be convicted, and shall there be filed amongst the Records of the said Sessions; and every

every Conviction shall be in the Form of Words or to the following Effect:

'BE it remembered, That on the Day of in 'Year A.B. was, upon the Complaint of C.D., con- 'victed before me [or us], E.F., One [or Two] of Her Majesty's Justices 'of the Peace [as the Case may be] for in pursuance of 'an Act made in the Year of the Reign of Her Majesty 'Queen Victoria [insert the Title of this Act], for that the 'said [state the Offence], [and if a Case in which different 'Penalties are imposed for different Offences] this being the First 'Offence [Second or Third Offence, as the Case may be]; and I [or 'we] do hereby adjudge him [her, or them] to pay and forfeit for the 'said Offence the Sum of of lawful Money of Great 'Britain and Ireland, together with the further Sum of 'for Costs of Suit and Prosecution, to the said C.D. Given under 'my Hand and Seal [or our Hands and Seals, as the Case may be], 'at in the County of the Day and Year 'above written.'

Which said Conviction and Adjudication shall be good and valid in Law to all Intents and Purposes, and shall not be quashed, set aside, or adjudged void or insufficient for Want of Form only, and shall not be liable to be removed by Certiorari or otherwise into Her Majesty's Court of Queen's Bench or any other of Her Majesty's Courts of Record at Dublin, but shall be deemed and taken to be final to all Intents and Purposes whatsoever.

Persons convicted under this Act not to be prosecuted under any other. Id. s. 11.

XVII. Where any Offender shall be punished for any Offence by virtue of this Act, such Offender shall not again be prosecuted nor incur any Penalty by virtue of any other Law or Statute now in force, or be liable to any other Punishment for the same Offence.

Appeal. Id. s. 12.

XVIII. Every Person who shall think himself or herself aggrieved by the Judgment of any Justice of the Peace or Magistrates in any of the Cases aforesaid may appeal to the Justices of the Peace for the County, Shire, Division, City, or Place where such Judgment shall be given, at the then next or next but one General Quarter Sessions of the Peace; but no such Appeal shall be received, heard, or determined unless the Appellant or Appellants shall within *Ten* Days next after such Judgment and *Twenty* Days at least before the holding of such Sessions, give and leave in Writing, as well at the Public Office of the Clerk of the Peace for such County, Shire, Division, City, or Place where such Person or Persons shall be convicted, as to the Person or at the Dwelling House of the Informer or Prosecutor, Notice of his, her, or their Intention to bring such Appeal,

and shall also enter into a Recognizance before such Justice or Justices in such Sum as any such Justice or Justices of the Peace shall think fit, not exceeding *Twenty Pounds*, conditioned to try such Appeal, and likewise to pay the Costs of such Appeal in case Judgment and Sentence shall upon the Hearing thereof be given against the Appellant, within *Ten* Days next after the Determination thereof; and the said Justices at their said Session shall and may, upon due Proof of such Notice given as aforesaid, hear and determine every such Appeal in a summary Way, and shall award or order to the Party in whose Behalf such Appeal shall be determined such Costs and Charges as they in their Discretion shall think reasonable and just to be paid by the Party or Parties against whom such Appeal shall be determined; and in case such Costs and Charges shall not be paid within the Space of *Ten* Days next after the hearing and determining of such Appeal, the same may be levied by Distress and Sale of the Goods and Chattels of the Person or Persons ordered to pay the same, or his or their Surety or Sureties, in the same Manner and by the same Means as all Distresses are ordered to be taken under or by virtue of this Act.

Limitation of Actions, &c. Id. s. 13.

XIX. No Action at Law shall be brought or commenced against any Person for anything done or to be done by virtue or in execution of this Act until *One Calendar Month* after Notice thereof in Writing shall have been given to the Person against whom such Action shall be intended to be brought, or left at his last or usual Place of Abode, setting forth the Cause of such Action, and containing the Name and Place of Abode of the Plaintiff or Plaintiffs, and also of his or their Attorney; and every Action brought for anything done or to be done as aforesaid shall be brought within the Space of *Three* Calendar Months next after the Cause of Action or Complaint shall arise, and shall be laid and sued in the County, Shire, Division, City, or Place where the Fact shall have been committed, and not elsewhere; and the Defendant or Defendants therein may plead the General Issue, and give this Act and the special Matter in Evidence, at any Trial to be had thereupon, and that the same was done by virtue thereof; and also it shall and may be lawful to and for such Person or Persons, at any Time before Action brought, to tender Amends to the Party complaining, or his or her Agent or Attorney, and in case the same is not accepted to plead such Tender in bar to the Action, together with the Plea of Not Guilty, and any other Plea, with the Leave of the Court; and if on the Trial of such Action it shall appear that the same was brought before the Expiration of *One Calendar Month* next after such Notice shall have been so given or left as aforesaid, or after the End of *Three* Months next after the Cause thereof shall have arisen, or if such Action shall have been brought or laid in any other County

or

or Place than as aforesaid, or after sufficient Tender of Amends shall have been made to the Party or Parties aggrieved, then and in any of the Cases aforesaid the Jury shall find a Verdict for and acquit the Defendant or Defendants in such Action; or if the Plaintiff or Plaintiffs shall discontinue the same after the Defendant or Defendants shall have appeared or shall be nonsuited, and if upon Demurrer Judgment shall be given against the Plaintiff or Plaintiffs, the Defendant or Defendants in such Action shall have *Double* Costs, and have the like Remedies for recovering the same as Defendants have for recovering their Costs in other Cases at Law; and no Action, Suit, Information, or other Proceeding whatsoever shall be brought or commenced against any Person or Persons for any Offence or Offences against this Act unless the same shall be laid or commenced within *Six* Calendar Months next after any such Offence or Offences shall have been committed.

No Proceeding for any Offence against this Act unless commenced within Six Calendar Months.

Inland Fisheries.

(Ireland.)

A

BILL

To assimilate the Law as to the Inland Fisheries in Ireland to that of England

(Prepared and brought in by Mr. M'Mahon and Mr. Duffy.)

Ordered, by The House of Commons, *to be Printed,* 20 *February* 1855.

[Bill 29.]

Under 2 *oz.*

14 *May* 1855. 18 Vict.

(Scotland.)

A

B I L L

TO

Consolidate and amend the Laws of Scotland regarding Insolvency and Bankruptcy.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS it is expedient to consolidate and amend the Laws relating to Insolvency and Bankruptcy, and for regulating the Sequestration of Estates of Bankrupts in Scotland: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. This Act may be cited as the "Bankruptcy (Scotland) Act 1855," and shall come into operation on and after *the First Day of November One thousand eight hundred and fifty-five.* Short Title and Date of Act.

II. The Acts passed in the Sessions of Parliament holden in the Fifty-fourth Year of the Reign of His Majesty King George the Third, Chapter One hundred and thirty-seven, excepting Sections Six, Seven, Ten, and Eleven, and in the Second and Third Year of the Reign of Her present Majesty, Chapter Forty-one, and in the Sixteenth and Seventeenth Year of the Reign of Her present Majesty, Chapter Fifty-three, are hereby repealed; saving always their Effect in regard to any Act or Deed done or granted prior to the foresaid Date. Acts repealed. 54 Geo. 3. c. 137. 2 & 3 Vict. c. 41. 16 & 17 Vict. c. 53.

Effect on existing Sequestrations.

III. All Sequestrations awarded on and after the said Date, or Proceedings occurring on or after that Date, in Sequestrations which have been awarded before it under former Acts, and all Matters connected with Insolvency or Bankruptcy provided for by this Act which occur on or after the said Date, although the Insolvency or Bankruptcy with which they are connected has occurred before it, shall be regulated by this Act: Provided always, that it shall be competent for the Lord Ordinary, or the Sheriff in Sequestrations awarded before the Date aforesaid, to order, upon Cause shown, the next or any subsequent Proceedings therein to be conducted as if the Acts hereby repealed were still in force, and such Proceedings shall thereon be as valid as if the said Acts were unrepealed.

Construction and Meaning of Words.

IV. In this Act the Words "Lord Ordinary" shall mean the Lord Ordinary officiating on the Bills in the Court of Session; the Word "Deliverance" shall include any Order, Warrant, Judgment, Decision, Interlocutor, or Decree; the Words "Clerk or Officer of the Court of "Session," shall include the Keeper of the Register of Abbreviates of Adjudications; the Word "Gazette" shall signify Edinburgh Gazette; the Word "Commissioners" shall mean a Majority of the Commissioners herein-after mentioned; the Words "Property" and "Estates" shall, when not expressly restricted, include every Kind of Property, Heritable or Moveable, wherever situated, and all Rights, Powers, and Interests therein capable of legal Alienation, or of being affected by Diligence or attached for Debt; the Word "Moveable" shall include Personal, and the Word "Heritable" shall include Real; the Word "Security" shall include Securities, Heritable or Moveable, and Liens and Preferences, and Conveyances thereof and any Part thereof; the Word "Successors" shall include Heirs, Heirs Apparent, Trustees under voluntary Conveyances, Representatives by Deed or otherwise, Executors, Administrators, and nearest of Kin, and also Assignees, Legatees, and Singular Successors where they have acquired the Right; the Word "Month" shall mean a Calendar Month; the Word "Oath" shall include Affirmation where by Law an Affirmation shall be required or permitted to be given in place of an Oath; the Word "Vote" shall, as well as the ordinary Meaning thereof, include a Consent to any Offer of Composition, and to a Discharge of the Debtor, and also a Dissent from such Offer or Discharge, and generally any Act as a Creditor; the Word "Company" shall include Bodies Corporate, Politic, or Collegiate, and Partnerships; the Words "Partner of a Company," shall include the Members of such Bodies; the Words "Debtor," "Bankrupt," and "Creditor," shall apply to Companies as well as Individuals, and shall, as well as all other Words importing the Singular Number and Masculine Gender, include several Persons as well as One Person, and

Females

Females as well as Males, and Aliens, unless in this, and also in the other Cases herein-above specified, a different Construction shall be provided.

V. Periods of Time shall be reckoned exclusive of the Days on which the Termini occur. Reckoning of Time.

Constitution and Effects of Notour Bankruptcy.

VI. Notour Bankruptcy shall be constituted by Insolvency concurring either: Notour Bankruptcy of Individuals.

1st. With a duly executed Charge for Payment or Performance, or of Letters of Horning, followed:

A. Where Imprisonment is competent, by Imprisonment or formal and regular Apprehension of the Debtor, or by his Flight or absconding from such Diligence, or Retreat to the Sanctuary, or forcible defending of his Person against such Diligence:

B. Where Imprisonment is incompetent or impossible, by Execution of Arrestment of any of the Debtor's Effects not loosed or discharged for *Fifteen* Days, or by Execution of poinding of any of his Moveables, or by Decree of Adjudication of any Part of his Heritable Estate for Payment or in Security:

Or, 2d, With Sale of any Effects belonging to the Debtor under a Poinding or Sequestration for Rent, or with his retiring to the Sanctuary for *Twenty-four* Hours, or with his making Application for the Benefit of Cessio bonorum, or with his Sequestration under this or any former Act, or with the issuing of an Adjudication of Bankruptcy against him in England.

VII. Notour Bankruptcy of a Company shall be constituted either in any of the foregoing Ways or by any of the Partners being rendered Notour Bankrupt for a Company Debt. Of a Company.

VIII. Notour Bankruptcy shall be held to commence from the Moment when its several Requisites come to co-exist, and when it has once been constituted it shall continue until Insolvency cease, without Prejudice to being anew constituted within such Period. Commencement of Notour Bankruptcy.

IX. Deeds made void by this Act, and all Alienations of Property by a Party insolvent or Notour Bankrupt, void by Statute or at Common Law, may be set aside either by way of Action or Exception, and that either in the Ordinary Court of the Sheriff or in the Court of Session; and when set aside by Action, the Benefit of such Action shall accrue to such other Creditors entitled to have pursued such Challenge may be in Court of Session or Sheriff Courts.

Action as shall reimburse the Raiser thereof of a proportionate Share of his Expenses incurred.

May be by Trustee.

X. The Trustee on a sequestrated Estate under this Act shall be entitled to set aside any such Deed or Alienation for behoof of the whole Body of Creditors, and in so doing shall be entitled to the Benefit of any Presumption which would have been competent to any One Creditor.

Securities for future Debts, Cash Accounts, or Credits, how far lawful.

XI. Any Disposition or other Right that shall be granted for Relief or Security of Debts to be contracted for the future shall be of no Force as to any such Debts that shall be found to be contracted after the Completion of such Disposition or Right, without Prejudice to the Validity of the said Disposition or Right in other respects: Provided, that it shall be lawful to grant such Disposition or other Right in Security of any Sums paid, or Balances arising or which may arise on Cash Accounts or Credits, whether such Credits are given in Money or in Goods, or by way of Relief to any Person or Persons who may become bound with the Grantee for Payment of such Sums or Balances, although posterior to the Date of Completion of such Security, when in the Deed granting the Security, the Principal and Interest which may become due upon the said Accounts or Credits shall be limited to a definite Sum, to be specified in the Security, which Sum shall not exceed the Amount of the Principal Sum which the Person holding the said Cash Account or Credit is entitled to draw therefrom, and *Three* Years Interest thereon, at the rate of *Five* per Cent. per Annum; and the Person holding such Cash Account or Credit shall be entitled to operate on the same, by drawing from Time to Time such Sums or Goods, to a specified Amount in Cash, or by paying in such Sums to said Account as the Parties shall agree to; and when such Security is constituted by Infeftment, such Infeftment shall be as effectual in all respects as if the whole Sums advanced had been paid prior to the same; and any such Securities shall remain and subsist to the Extent of the Sum limited, or any lesser Sum, till the Cash Account or Credit is finally closed, and the Security renounced.

Pari passu Ranking of Diligence.

Arrestments and Poindings.

XII. Arrestments and Poindings which shall have been used within *Sixty* Days prior to Notour Bankruptcy, or within *Four* Months thereafter, shall be ranked pari passu respectively, as if they had respectively been used of the same Date: Provided, that if such Arrestments are on the Dependence or on an illiquid Debt, they be followed up without undue Delay: Provided further, that any Creditor

ditor judicially producing liquid Grounds of Debt or Decree of Payment within such Period shall be entitled to rank as if he had executed a Poinding; and in case the first or any subsequent Arrester shall, in the meantime, have obtained a Decree of Forthcoming and Preference, and thereupon shall have recovered Payment, or a Poinder carried through a Sale, he shall be accountable for the Sum recovered to those who, by virtue of this Act, may be eventually found to have a Right to a Ranking pari passu thereon, and shall be liable to an Action at their Instance for Payment to them proportionally, after allowing out of the Fund the Expense of recovering the same; and if any Arrestments be used for attaching the same Effects after the Period of *Four* Months subsequent to the Bankruptcy, such Arrestments shall not compete with those used within the said Periods prior or subsequent thereto, but may rank with each other on any Reversion of the Fund attached, according to the former Law and Practice.

Arrestments in Hands of Persons out of Scotland.

XIII. An Arrestment executed to attach the Effects of the Debtor, as in the Hands of a Person out of Scotland, shall not be held to have interpelled such Person from paying to the original Creditor, unless Proof be made that he or those having Authority to act for him were previously in the Knowledge of such Arrestment having been so used.

Adjudications.

XIV. And in order to lessen the Number of Adjudications for Debt, and consequently the Expense to all Parties, and to facilitate the pari passu Preference of Creditors in similar Circumstances, the Lord Ordinary officiating in the Court of Session, before whom the First Process of Adjudication against any Estate for Payment or Security of Debt is called, shall ordain Intimation thereof to be made in the Minute Book and on the Wall, *Twenty* Sederunt Days being allowed for such Intimation before the Cause be called a Second Time; and any other Creditors of the common Debtor, who at the Second Calling of the Cause can show that, although they have not executed their Summonses of Adjudication, they are, in other respects, by the Nature of the Grounds of Debt and Steps taken by them, in condition to proceeed in adjudging their Debtor's Estate, may then produce the Instructions of their Debts, with Summonses of Adjudication, libelled and signetted, for the Purpose of their being conjoined in the Decree of Adjudication; and if any of these Forms shall happen to be omitted, the said Adjudication shall be null and void, without Prejudice to its being brought forward again in more due Form, or still conjoined with any after Adjudication, and without Prejudice to the Validity and Order of posterior Adjudications according to the Rules of Law.

Sequestration, when competent.

Sequestration may be awarded in Cases enumerated.

XV. Sequestration may be awarded of the Estate of any Person, being a Debtor subject to the Law of Scotland :

1st. In the Case of a living Debtor :

A. On his own Petition, with the Concurrence of Creditors, qualified as herein-after mentioned :

B. On the Petition of Creditors, qualified as herein-after mentioned, provided he be Notour Bankrupt, and have within a Year before the Date of the Petition being presented resided or had a Dwelling House or Place of Business in Scotland; or otherwise, in the Case of a Company being Notour Bankrupt, as herein-before provided, if it have within such Time carried on Business in Scotland, and any Partner have so resided or had a Dwelling House or Place of Business in Scotland :

Sequestration of deceased Debtor.

2d. In the Case of a deceased Debtor ;

A. On the Petition of a Mandatory to whom he had granted a Mandate to apply for Sequestration :

B. On the Petition of Creditors qualified as herein-after mentioned, provided the Debtor at the Time of his Death resided or had a Dwelling House or carried on Business in Scotland.

Qualification of Creditors, petitioning or concurring.

XVI. Petitions for Sequestration may be at the Instance or with the Concurrence of any One Creditor whose Debt amounts to not less than *Fifty Pounds*, or of any Two Creditors whose Debts together amount to not less than *Seventy Pounds*, or any Three or more Creditors whose Debts together amount to not less than *One hundred Pounds*, whether such Debts are liquid or illiquid, provided they are not contingent.

Within what Date Petitions may be presented.

XVII. Petitions for Sequestration, in Cases falling under the Head marked B in the First Clause of Section XV., shall be competent only within *Four* Months of the Date of the Debtor's Notour Bankruptcy ; and in Cases falling under the Head marked B in the Second Clause in the said Section the Petition for Sequestration may be presented at any Time after the Debtor's Death, but no Sequestration shall be awarded until the Expiration of *Six* Months from the Debtor's Death, unless he was at the Time of his Death Notour Bankrupt, or unless his Successors shall concur in the Petition or renounce the Succession, in which several Cases Sequestration shall forthwith be awarded ; and in all the other Cases set forth in the said Section a Petition for Sequestration shall be competent at any Time, and Sequestration may follow thereon in manner herein-after directed.

Interim

Interim Preservation of Estate.

Court may take Measures to preserve Estate before Sequestration.

XVIII. It shall be competent for the Court to which a Petition for Sequestration is presented, whether Sequestration can forthwith be awarded or not, on special Application by a Creditor, either in such Petition or by a separate Petition, with or without Citation to other Parties interested, as the said Court may deem necessary, to take immediate Measures for the Preservation of the Estate, either by the Appointment of a Judicial Factor, with the necessary Powers for that Purpose, or by such other Proceedings as may be requisite, and such interim Appointments or Proceedings shall be carried into immediate effect, but if given by the Sheriff may be recalled by the Court of Session, on Appeal taken, in manner herein-after directed.

After Sequestration Bankrupt's Papers may be sealed up.

XIX. The Sheriff shall have Power, upon Cause shown by any Creditor, at any Time after the Sequestration, and before the Election of a Trustee, to seal up and cause to be put under safe Custody the Books and Papers of the Bankrupt, and to lock up his Shop, Warehouse, or other Repositories, and to keep the Keys thereof till a Trustee is elected and confirmed.

Forum.

Courts for awarding Sequestration.

XX. Sequestration may be awarded either by the Court of Session or by the Sheriff of any County in which the Debtor, within the Year preceding the Date of the Petition, had resided or carried on Business.

Later Sequestrations to be remitted to the first in Date.

XXI. When Sequestration has been awarded against a Debtor by the Sheriffs of Two or more Counties, the later Sequestration or Sequestrations shall, on Production of a Certificate by the Sheriff Clerk of the County in which the Sequestration first in Date which is unchallenged, or which on Appeal shall be confirmed, was awarded, setting forth the Date of such Sequestration, and that the same is unchallenged or has been confirmed, be remitted to the Sheriff of such County, and where all the Sequestrations are of the same Date, any One may be brought by Appeal at any Time before either Division of the Court of Session or Lord Ordinary, in manner herein-after directed, and on such Appeal, or when a Sequestration has been awarded by the Court of Session alone, or by the Court of Session and also by One or more Sheriff Courts, the Court of Session or Lord Ordinary shall remit the Sequestration to such Sheriff Court as in the whole Circumstances they or he deems expedient; and a Notice of such Remit shall be inserted by the Clerks of the Bill Chamber in the Gazette within *Four* Days after such Remit shall have been made.

No Proceeding under Order of Sheriff to be effectual after Appeal except for Preservation of Estate.

XXII. It shall be competent in such a Case for each Sheriff awarding Sequestration to take such Measures in the meantime as may be necessary for preserving the Debtor's Estate and Effects within his Jurisdiction, under the Provisions made in this Act; but no other Orders given by any Sheriff on or after awarding Sequestration except by the Sheriff to whom the Sequestration is remitted, and no Proceedings of Creditors or others in pursuance of such Orders shall be of any Force or Effect from and after the Date of such Appeal or of such Sequestration by the Court of Session.

Form of Petition and Productions therewith.

Form of Petition.

XXIII. Petitions for Sequestration in the Court of Session shall be made to the Lord Ordinary, and be signed by the Petitioner or his Counsel, and the Division of the Court to which the Sequestration is appropriated shall be marked thereon, and in the Sheriff Court shall be signed by the Petitioner or his Agent, and in either Court, in Petitions at the Instance of the Debtor, but not signed by him, there shall be produced therewith a Mandate authorizing the same, signed by him, or in the Case of a Company signed by a Party entitled to act for the Company, and in all Cases the Petitioning or Concurring Creditor shall produce with such Petition an Oath to the Effect herein-after specified, and also the Account and Vouchers of the Debt referred to in such Oath; failing which the Petition shall be dismissed.

Oath to be produced.

Oath to be to Verity of Debt and Extent of Securities.

XXIV. Such Oath in the Case of a Creditor residing within the Kingdom of Great Britain and Ireland shall be taken by him before a Judge Ordinary, Magistrate, or Justice of the Peace to the Verity of the Debt claimed by him; and he shall in such Oath state what other Persons, if any, are, besides the Bankrupt, liable for the Debt or any Part thereof, and specify any Security which he holds over the Estate of the Bankrupt or of other Obligants, and depone that he holds no other Obligants or Securities than those specified, and where he holds no other Person than the Bankrupt so bound, and no Security, he shall depone to that Effect; and in Cases where the Creditor is a Body Corporate, an Oath of Verity made as aforesaid by the Manager, Cashier, Clerk, or other principal Officer of such Body Corporate shall be sufficient, although the Person making the same be not a Partner in such Corporation; or in case of other Companies, an Oath by a Partner shall be sufficient.

How taken, when Creditor out of Great Britain or Ireland.

XXV. Such Oath in the Case of a Creditor who is out of the Kingdom of Great Britain and Ireland shall be taken by him to the Verity of the Debt in the Manner above provided before a Magistrate or Justice of the Peace, or other Person qualified to administer Oaths in the Country where he resides, (he being certified to be a Magistrate

trate or Justice of the Peace, or qualified as aforesaid, by a British Minister or British Consul, or by a Notary Public,) or his known Agent or Mandatory in Great Britain or Ireland shall make an Oath of Credulity in the Manner and to the Effect before provided.

Oath to specify further Particulars in certain Cases.

XXVI. Where the Petition is presented for Sequestration of the Estates of a deceased Debtor, the Petitioning Creditor shall, in his Oath, or in a separate Oath, specify the Place where the Debtor resided or had a Dwelling House or carried on Business in Scotland at the Time of his Death, and whether he was the Owner of Estates in Scotland; and where the Petition is presented during the Life of the Debtor, without the Consent of the Debtor, the Petitioning Creditor shall in such Oath, in the event of the Debtor's Bankruptcy being founded on his retiring within the Sanctuary, swear that he believes the Debtor to have so retired as herein-before set forth.

Claim of Creditors who are Minors or incapable.

XXVII. Where any Creditor shall be under Age or incapable to make Oath, an Oath of Credulity as aforesaid by his authorized Agent, Factor, Guardian, or Manager shall be sufficient.

Citation on Petition.

When Citation of Parties necessary.

XXVIII. When the Petition for Sequestration is presented without the Consent of the Debtor, or for the Sequestration of the Estate of a Debtor who is dead, the Lord Ordinary or Sheriff to whom it is presented shall grant Warrant to cite the Debtor, or, if dead, his Successor, to appear within a specified Period, if he be within Scotland, by delivering to him personally, or by leaving at his Dwelling House or Place of Business, or the Dwelling House or Place of Business last occupied by him, a Copy of the Petition and Warrant, and if the Debtor or his Successor be furth of Scotland, to cite him to appear within a specified Period by leaving a Copy at the Office of Edictal Citations, at the Dwelling House or Place of Business last occupied by him, and, if the Debtor be dead, also at the Dwelling House or Place of Business occupied by him at his Death, to show Cause why Sequestration should not be awarded; and the Lord Ordinary or the Sheriff shall, if desired, grant Diligence to recover Evidence of the Notour Bankruptcy or other Facts necessary to be established.

In Sequestration of a Company.

XXIX. Where the Debtor is a Company it shall be a sufficient Citation that a Copy of the Petition and Warrant be left at the Place where the Business of the Company is or was last carried on, provided a Partner or a Clerk or a Servant of the Company be there, and failing thereof at the Dwelling House of any of the acting Partners, and if the House of such Partner cannot be found, by leaving

a Copy at the Office of Edictal Citations; and Sequestration may be awarded either on the Application of the Company itself, or on the Application of a Creditor or Creditors to the Amount aforesaid, without the Consent thereof, of the Estates of the Company and Partners jointly, or of their respective Estates separately.

Inducie of Citation.

XXX. The Inducie of Citation, when made personally or at a Dwelling House or Place of Business, shall be not less than *Six* nor more than *Twenty-one* Days, and when made edictally shall be not less than *Thirty* nor more than *Forty* Days; and in the Case of the Successor of a deceased Debtor shall be in both Cases *Twenty-one* Days: Provided always, that if on the Expiration of the said *Twenty-one* Days the Debtor's Successor do not appear the Lord Ordinary or Sheriff shall direct Intimation of the Warrant and of a new Diet of Appearance on like Inducie to be published in the Gazette, and such new Diet shall be peremptory.

Procedure on Petition.

Sequestration to be forthwith awarded on Petition by Debtor.

XXXI. When a Petition is presented in manner aforesaid to the Lord Ordinary, or to the Sheriff, for Sequestration, the Lord Ordinary or the Sheriff shall forthwith, where it is by or with the Concurrence of the Debtor, or, if dead, of his Successor, issue a Deliverance by which he shall award Sequestration of the Estates which then belong or shall thereafter belong to the Debtor before the Date of the Discharge, and declare the Estates to belong to the Creditors for the Purposes of this Act; and if the Debtor is dead shall ordain any Successor who has made up a Title to or is in possession of any Part of his Property to convey the same to the Trustee to be appointed as herein-after mentioned.

Sequestration to be awarded after Citation and hearing Parties when Petition not by Debtor.

XXXII. Where the Petition is not by or with the Concurrence of the Debtor, or, if dead, of his Successor, and if the Debtor, or, if dead, his Successor, do not appear at the Diet of Appearance, either in Person or by his Counsel or Agent, and show Cause why the Sequestration should not be awarded, or if the Debtor so appearing do not instantly pay or produce written Evidence of the Debt or Debts being satisfied in respect of which he was made Bankrupt, and also pay or satisfy or produce written Evidence of the Payment or Satisfaction of the Debt or Debts due to the Petitioner or Petitioners, or to any other Creditor or Creditors appearing and concurring in the Petition, the Lord Ordinary or Sheriff, on Production of Evidence of the Citation and of the Notour Bankruptcy, shall award Sequestration in manner and to the Effect before mentioned; and it shall not be competent for any Creditor, after the Date of the First Deliver-

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ance on the Petition for Sequestration, to be confirmed Executor Creditor, or to raise or insist in any Adjudication against the Estate of the deceased Debtor.

Appeal against Sheriff's Judgment awarding Sequestration.

XXXIII. The Deliverance of the Sheriff granting or refusing Sequestration shall be subject to Review by Appeal, in manner herein-after directed, to either Division of the Court of Session, or to the Lord Ordinary in Time of Vacation, and such Appeal shall be heard and decided summarily, but with Power to the Lord Ordinary to report the Case to either Division of the Court for their Decision; and the Judgment pronounced on Appeal by the Division or the Lord Ordinary shall be final; and Notice of such Appeal having been taken shall be given by the Clerks of the Bill Chamber within *Four* Days after the Receipt thereof by Advertisement in the Gazette.

Recal of Sequestration within Forty Days.

XXXIV. The Deliverance awarding Sequestration when given on Petition to the Lord Ordinary shall not be subject to Review; but any Debtor whose Estate has been sequestrated without his Consent, or the Successors of any Debtor whose Estate has been sequestrated, or any Creditor, whether the Sequestration has been awarded by the Lord Ordinary or by the Sheriff, may, within *Forty* Days after the Date of the said Deliverance, present a Petition to the Lord Ordinary, setting forth the Grounds for Recal and praying for Recal; and when Sequestration has been awarded of the Estate of a deceased Debtor when his Successor was edictally cited, it shall be competent for his Successor, or any Person having Interest, to apply by Petition as aforesaid at any Time before the Publication of the Advertisement for Payment of the First Dividend herein-after mentioned; and the Lord Ordinary shall, in these several Cases, order a Copy of the Petition for Recal and of his Deliverance to be served on the Parties who petition and concurred in the Petition for Sequestration, or on their respective known Agents, and on the Trustee, if appointed, and he shall require them to answer within a specified short Time, and order a Notice of the presenting of the Petition for Recal to be published in the Gazette, and on the Expiration of the Time so fixed he shall proceed to pronounce Judgment; and if he shall recal the Sequestration, the Recal shall be entered in the Register of Sequestrations, and on the Margin of the Register of Inhibitions.

Recal of Sequestration at future Time.

XXXV. No Petition for Recal of the Sequestration shall be competent after the Expiration of the said *Forty* Days, or after the said Advertisement for Payment of the said Dividend respectively, unless *Nine Tenths* in Number and Value of the Creditors ranked on the Estate as herein directed apply for Recal by Petition to the Lord Ordinary, who shall order Notice of his Deliverance to be published

in the Gazette, requiring all concerned to appear within *Fourteen* Days from the Date of Publication to show Cause why the Sequestration should not be recalled, and on Expiration of the said Time he shall proceed to pronounce Judgment.

Proceedings not to be stayed.

XXXVI. Pending any Petition for Recal, and until the Sequestration be finally recalled, the Proceedings in the Sequestration shall go on as if no such Petition had been presented.

Sisting of one Party for another.

XXXVII. If a Creditor who has petitioned for Sequestration, or concurred in such Petition, or who has petitioned for Recal of a Sequestration, or appeared to oppose a Petition for Sequestration or Recal, or lodged an Objection, shall withdraw, or become bankrupt, or die, any other Creditor may be sisted in his Place and follow out the Proceedings; and if the Debtor shall die after the Petition for Sequestration is presented the Proceedings shall notwithstanding be followed out in Terms of this Act, so far as Circumstances will permit.

Commencement of Sequestration.

XXXVIII. In all Questions under this Act or preceding Acts regarding Sequestration of the Estates of Debtors the Sequestration shall be held to commence and take effect on and from the Date of the First Deliverance on any Petition for Sequestration, which shall be held to be the Date of the Sequestration, although the Sequestration be not actually commenced until a later Date.

Clerks to Sequestration.

XXXIX. In Sequestrations awarded in the Court of Session and remitted to the Sheriff the Process of Sequestration shall be held to be in the Bill Chamber of the Court of Session, and the Clerks of the Bill Chamber shall be Clerks to such Sequestrations, and the Sheriff Clerk of the County shall be Clerk to the Sequestrations awarded by the Sheriff of that County; and no Process of Sequestration, either in the Court of Session or Sheriff Court, shall fall asleep; and on a Remit of a Sequestration awarded in the Court of Session being made to the Sheriff a Copy of the Petition for Sequestration, and of the First Deliverance, and also (where it is different) of the Deliverance awarding Sequestration, certified by One of the Clerks of the Bill Chamber, shall, with the Productions, be transmitted by the Petitioner to the Sheriff Clerk of the County to the Sheriff of which the Sequestration is remitted; and in all Sequestrations the Sheriff Clerk and Messengers-at-Arms and Officers of the Sheriff Court shall have Power to act in their respective Offices under this Act.

Sequestration not to fall asleep.

Protection or Liberation of Debtor.

Warrant of Protection

XL. The Lord Ordinary or Sheriff, when awarding Sequestration, may grant to the Debtor or Partners of the Company against whom

or

or which it is awarded, a Warrant of Protection against Arrest or Imprisonment for Civil Debt until the Meeting of the Creditors for the Election of Trustee, or he may refuse to award such Warrant of Protection; and every such Warrant of Protection which shall not be advertised in the London and Edinburgh Gazettes within *One Week* after the Date of such Sequestration shall be ineffectual and incapable of being pleaded in bar of personal Diligence; but, notwithstanding the Lord Ordinary or Sheriff shall refuse to grant Interim Warrant of Protection as aforesaid, it shall be competent to the Creditors on the Occasion of the Meeting to elect a Trustee, or at the Meeting after the Examination of the Bankrupt, or at any Meeting called for the Purpose of receiving an Offer of Composition, to resolve that personal Protection ought to be granted to the Bankrupt for such Time as they may think fit, and the Trustees shall thereupon apply to the Sheriff, who shall grant the Protection.

may be granted to the Debtor.

XLI. The Lord Ordinary or the Sheriff by whom Sequestration was awarded may, on Application made either in the Petition for Sequestration or by a separate Petition by the Debtor, grant Warrant for liberating the Debtor, if in Prison, after such Intimation to the incarcerating Creditor or his known Agent as the Lord Ordinary or the Sheriff may deem just, and after hearing any Objection to the granting of such Warrant; and if the Application be refused it shall be competent for the Debtor to make a new Application for Liberation, with Consent of the Trustee and Commissioners, and, on Intimation and hearing Objections as aforesaid, the Lord Ordinary or the Sheriff may grant Warrant to liberate; and in any Case the Lord Ordinary or the Sheriff may annex such Conditions of Caution or otherwise to such Warrant as he may judge proper.

Warrant to liberate the Debtor.

XLII. The Judgment of the Sheriff granting or refusing Liberation shall be subject to Review by a Note of Appeal to either Division of the Court of Session, or, during Vacation, to the Lord Ordinary, which Appeal shall be heard summarily, and the Judgment pronounced thereon shall be final.

Sheriff's Judgment subject to Appeal.

XLIII. The Warrant granting Protection or Liberation, or a Copy thereof, certified by One of the Bill Chamber Clerks if it is granted by the Lord Ordinary, or by the Sheriff Clerk if it is granted by the Sheriff, shall protect or liberate the Debtor from Arrest or Imprisonment in Great Britain and Ireland, and Her Majesty's other Dominions for Civil Debt, contracted previous to the Date of Sequestration, and all Courts of Justice and Judges and all Officers and Gaolers shall be bound to give Effect to such Warrant; but such

Effect of Warrant of Protection or Liberation.

Warrant of Protection or Liberation shall not be of any Effect against the Execution of a Warrant of Apprehension or Imprisonment in meditatione fugæ or ad factum præstandum, or for any criminal Act.

Registration of Sequestrations.

Recording Abbreviate of Sequestration.

XLIV. The Party applying for Sequestration shall present, before the Expiration of the *Second* lawful Day after the First Deliverance, if given by the Lord Ordinary, or present or transmit by Post before the *Second* lawful Day after the said Deliverance, if given by the Sheriff, an Abbreviate of the Petition and Deliverance, signed by him or his Agent, in the Form of Schedule (A. No. 1.) hereunto annexed, to the Keeper of the Register of Hornings and Inhibitions at Edinburgh, who shall forthwith record the said Abbreviate in the Register of Inhibitions, and write and subscribe a Certificate thereof on the said Petition in the Form also specified in the said Schedule (A. No. 2.); and the Abbreviate so recorded shall from the Date of the said Deliverance have the Effect of an Inhibition and of a Citation in an Adjudication of the Estate of the Debtor at the Instance of the Creditors afterwards ranked on the Estate; and it shall not be competent to stop such Effect, or the Effect of the Sequestration after it is awarded, by paying the Debt or Debts in respect of which it was applied for or awarded; and if the said Abbreviate be not so recorded it shall have no Effect as an Inhibition or Citation as aforesaid, and the Party applying for Sequestration shall, within *Four* Days from the Date of the Deliverance awarding the Sequestration (if awarded in the Court of Session), or, if it is awarded by the Sheriff, within *Four* Days after the Copy of the said First Deliverance to be transmitted by the Sheriff Clerk as above provided shall be received by the Clerks of the Bill Chamber, insert a Notice in the Form of Schedule (B.) hereunto annexed in the Gazette, and also One Notice in the same Terms within *Eight* Days from the said Date in the London Gazette.

Ranking of Claims.

1st. General Rules as to Voting and Ranking for Payment of Dividends.

Creditor claiming must produce Oath.

XLV. To entitle a Creditor to vote or draw a Dividend he shall be bound to produce at the Meeting, or in the Hands of the Trustee, an Oath to the Effect and taken in manner appointed in Sections Twenty-four and Twenty-five of this Act, and shall thereupon be entitled to vote and rank as herein-after directed.

Provision for Correction of Oath.

XLVI. When it shall appear to the Sheriff or to the Trustee that the Oath or Claim of any Person produced with a view to voting or ranking,

ing, and drawing a Dividend on the Sequestration is not framed in the Manner required by this Act, the Sheriff or Trustee, as the Case may be, shall call upon such Person, or his Procurator or Mandatory, to rectify his Oath and Claim, pointing out to him wherein it is defective; and unless such Person shall thereupon make such Alteration upon his Oath and Claim as may be necessary in order to rectify the same, the Sheriff or Trustee, as the Case may be, shall disallow or reject such Oath and Claim: Provided always, that when the Failure to comply with the Provisions of this Act shall appear to have been made for some improper or fraudulent Purposes, or where Injury can be qualified by the other Creditors or any of them in respect thereof, it shall not be incumbent upon the Sheriff or Trustee to give such Person an Opportunity to rectify his Oath and Claim as aforesaid.

May vote and rank for Principal and Interest to Date of Sequestration only.

XLVII. A Creditor who has a Claim for a Debt due shall be entitled to vote and rank for the accumulated Sum of Principal and Interest to the Date of the Sequestration, but not for any Interest accruing after the Date of the Sequestration, and if the Debt is not payable till after the Date of the Sequestration, he shall be entitled to vote and rank for it only after Deduction of the Interest from that Date, and he shall also be liable to Deduction of any Discount beyond legal Interest to which his Claim is liable by the Usage of Trade applicable to it, but he shall not be bound to specify separately in his Oath or Claim for his Debt the Amount of any Interest due thereon or of any Interest or Discount deducted therefrom, or to specify therein any accumulated Sum of Principal and Interest, and if there be any Residue of the Estate after discharging the Debts ranked he shall be entitled to claim out of such Residue the full Amount of the Interest on his Debt in Terms of Law.

Valuation of Claim depending on a Contingency.

XLVIII. When the Claim of a Creditor depends upon a Contingency which is unascertained at the Date of lodging his Claim, he shall not be entitled to vote nor to draw a Dividend in respect of such contingent Debt, but he may apply to the Sheriff, if the Trustee has not been elected, or, if elected, to the Trustee, to put a Value on such Debt, and the Sheriff or Trustee (as the Case may be) shall put a Value thereon as at the Date of such Valuation; and on such Value being fixed, such Creditor shall be entitled to vote and draw Dividends in respect of such Value, and no more: Provided that if such Contingency have taken place before the Debt has been valued, such Creditor may vote and draw Dividends in respect of the Amount of the Debt, but the same shall not disturb any former Dividends allotted to other Creditors; and when such Application is made to the Sheriff, Notice thereof shall be given to the Bankrupt and Petitioning or Concurring Creditor; and the Judgment of the Sheriff or Trustee

shall be subject to Review, and any Creditor who has claimed on the Estate may appear and be heard thereon.

Valuation of Claim on Annuity.

XLIX. No Creditor in respect of an Annuity granted by the Bankrupt shall be entitled to vote and draw a Dividend until such Annuity shall be valued, but he may, if the Trustee has not been elected, apply to the Sheriff, or, if elected, to the Trustee, to put a Value on such Annuity, regard being had to the original Price given for the Annuity, deducting therefrom such Diminution in the Value of the Annuity as shall have been caused by the Lapse of Time since the Grant thereof to the Date of the Sequestration; and such Creditor shall be entitled to vote and draw Dividends in respect of such Value, and no more: Provided always, that when such Application is made to the Sheriff Notice thereof shall be given to the Bankrupt and the Petitioning or Concurring Creditor; and the Judgment of the Sheriff or Trustee shall be subject to Review, and any Creditor who has claimed on the Estate may appeal and be heard thereon.

Liability and Claims of Cautioners for Annuities.

L. When any Person is bound as Cautioner for Payment of such Annuity, it shall not be lawful for the Creditor therein to sue or charge such Cautioner after the Date of the Sequestration; and such Cautioner shall only be liable for the Value fixed as aforesaid, and the Arrears of Annuity; and on such Cautioner making Payment of such Value and Arrears to the Creditor, and the lawful Interest thereon, he shall be discharged of all Liability for such Annuity, and he may thereupon enter a Claim in the Sequestration for the Sum so paid, and vote and draw Dividends thereon: Provided that if such Cautioner shall not pay the Sum so fixed and Arrears as aforesaid before any Payment of the Annuity subsequent to the fixing thereof becomes due, he shall be bound to make Payment of the said Annuity, and all subsequent Annuities, until he shall make Payment of the Sum so fixed, Arrears of Annuity and Interest as aforesaid, deducting always such Dividends as the Creditor shall have received before full Payment as aforesaid.

Claiming or acting in the Sequestration not to discharge Co-Obligants.

LI. When a Creditor has an Obligant bound to him along with the Bankrupt for the whole or Part of the Debt, such Obligant shall not be freed from his Liability for such Debt in respect of any Vote given or Dividend drawn by the Creditor, or of his assenting to the Discharge of the Bankrupt, or to any Composition; but such Obligant may require and obtain, at his own Expense, from such Creditor, an Assignation to the Debt, on Payment of the Amount thereof, and in virtue thereof enter a Claim on the said Estate, and vote and draw Dividends, if otherwise legally entitled to do so.

LII. No

Liability of Creditors for Expenses.

LII. No Person shall, by merely lodging an Oath and Claim, or being ranked or receiving Payment of a Dividend, or appearing or voting at a Meeting in a Sequestration as a Creditor, be liable for any Claim by the Agent or other Person employed by the Trustee for Money advanced, or Expense incurred, or Remuneration in relation to the Affairs of the Estate, reserving to the Agent or other Person so employed Right to Payment out of the Estate, and from the Trustee by whom he may have been employed, in so far as the same may be competent to him; and no Trustee shall have Relief in respect of such Payment against such Creditor, reserving to such Trustee Relief against the Estate, and against those Creditors or others who may on other Grounds be liable in Relief.

Oaths not to supersede other Evidence.

LIII. In no Case shall Oaths of Verity or Credulity supersede Production of legal Evidence, when required, in any judicial Discussion before the Court of Session, the Lord Ordinary, the Sheriff, or the Trustee.

2d. Special Rules as to Voting.

Valuation of Securities for voting.

LIV. If a Creditor hold a Security for his Debt over any Part of the Estate of the Bankrupt, he shall, before voting, make an Oath, in which he shall put a specified Value on such Security, and deduct such Value from his Debt, and specify the Balance, and if the Estate over which the Security extends be sold, he shall specify in his Oath the free Proceeds which he has received or shall be entitled to receive therefrom, and specify the Balance due after Deduction thereof, and he shall be entitled in either Case to vote in respect of the Balance, and no more, without Prejudice to the Amount of his Debt in other respects, and in Questions as to the Disposal or Management of the Estate subject to his Security he shall be entitled to vote as a Creditor for the full Amount of his Debt, without making any such Deduction.

Valuation of Obligations of Co Obligants with Bankrupt.

LV. When a Creditor has an Obligant bound with but liable in Relief to the Bankrupt, or holds any Security from an Obligant liable in Relief to the Bankrupt, or any Security from which the Bankrupt has a Right of Relief, such Creditor shall, before voting, make an Oath, in which he shall put a specified Value on the Obligation of such Obligant, and on such Security, to the Extent to which the Bankrupt is entitled to Relief, and he shall deduct such Value from his Debts, and specify the Balance, and he shall be entitled to vote in respect of such Balance, and no more, without Prejudice to the Amount of his Debt in other respects.

Valuation of Claims against a Company and Partners.

LVI. A Creditor on the Estate of a Company shall not be bound, for the Purpose of voting on the Company's Estate, to deduct from his Claim the Value which he may be entitled to draw from the Estates of the Partners; but if he claim on the Estate of a Partner, he shall, before voting, in his Oath put a specified Value on his Claim against the Estate of the Company, and also against the other Partners thereof, in so far as they are liable to relieve such Partner, and deduct such Value from his Debt, and specify the Balance, and he shall be entitled to vote as a Creditor for the said Balance, and no more, without Prejudice to the Amount of his Debt in other respects.

Trustee may require a Conveyance of Security by Creditor on 20 per Cent. Addition to his own Valuation.

LVII. It shall be competent to the Trustee, with Consent of the Commissioners, within *Two* Months after an Oath, specifying the Value of a Security, or Obligation, or Claim in the several Cases before mentioned, has been made use of in voting at any Meeting or in assenting to or dissenting from the Bankrupt's Composition or Discharge, as also it shall be competent to the Majority of the Creditors (excluding the Creditor making such Oath) assembled at any Meeting, and during such Meeting, to require from the Creditor making such Oath a Conveyance or Assignation in favour of the Trustee to such Security, Obligation, or Claim, on Payment of the specified Value, with *Twenty* per Centum in addition to such Value; and the Creditor shall be bound to grant such Conveyance or Assignation, at the Expense of the Estate: Provided that where a Creditor has put a Value on such Security or Obligation, he may at any Time, before he has been required to convey and assign as aforesaid, correct such Valuation by a new Oath, and deduct such new Value from his Debt.

Creditor may correct Valuation by new Oath.

Mandatories for Creditors may vote.

LVIII. The Mandatory of any Person entitled to vote as a Creditor may vote in the Absence of such Creditor, provided he exhibit a Mandate; and the Vote of such Mandatory shall, within his Mandate, be held as the Vote of the Creditor himself.

Persons acquiring Debts after Sequestration not to vote.

LIX. No Person who shall acquire after the Date of the Sequestration, otherwise than by Succession or Marriage, a Debt due by the Bankrupt, shall be entitled to vote in the Election of Trustee or Commissioners, but in all other respects such Person may be reckoned as a Creditor.

3d. Special Rules as to Ranking for Payment of Dividends.

Valuation of Securities with a view to a Dividend.

LX. To entitle any Creditor who holds a Security over any Part of the Estate of the Bankrupt to be ranked in order to draw a Dividend, he shall on Oath put a specified Value on such Security, and deduct such

such Value from his Debt, and specify the Balance; and the Trustee, with Consent of the Commissioners, shall be entitled to a Conveyance or Assignation to such Security, at the Expense of the Estate, on Payment of the Value so specified out of the first of the Common Fund, or to reserve to such Creditor the full Benefit of such Security; and in either Case the Creditor shall be ranked for and receive a Dividend on the said Balance, and no more, without Prejudice to his Debt in other respects.

Value of Claim against a Company to be deducted from Claim against Partners.

LXI. When Creditors claim on the Estate of the Partner of a Company in respect of a Debt due by such Company, the Trustee on the Estate of such Partner shall, before ranking such Creditors, put a Valuation on the Estate of the Company, and deduct from the Claims of such Creditors such estimated Value, and rank and pay to them a Dividend only on the Balance.

Election and Removal or Resignation of Trustee.

Appointment of Meeting to elect a Trustee.

LXII. The Lord Ordinary or the Sheriff, by the Deliverance which awards the Sequestration, shall appoint a Meeting of the Creditors, to be held at a specified Hour, on a specified Day, being not earlier than *Six* nor later than *Twelve* Days from the Date of such Deliverance, at a convenient Place within the County of the Sheriff awarding Sequestration, or to whom the Sequestration is remitted, to elect a Trustee or Trustees in Succession, and do the other Acts herein-after provided.

Procedure at Meeting for Election of Trustee.

LXIII. Creditors or their Mandatories, qualified as aforesaid, shall assemble at the Time and Place fixed for the Election of Trustee, with Power to adjourn for such reasonable Time as may seem fit, provided such Adjournment do not postpone the Meeting for the Election of Trustee beyond the Limit of the Period within which that Meeting is by this Act appointed to be he held; and if Two or more Creditors shall give Notice to the Sheriff or Sheriff Substitute of the County, such Sheriff or Sheriff Substitute (or in case of necessary Absence a Sheriff Substitute authorized by the Sheriff to act under this Act) shall attend the Meeting and adjourned Meetings, and preside; and the Sheriff Clerk or his Deputy shall also attend, and mark the Oaths and Productions with his Initials, and write the Minutes in the Presence of the Meeting, and enter therein the Names and Designations of the Creditors present, or the Mandatories of Creditors, and the Amount for which they claim, and any other Circumstances which the presiding Sheriff shall judge fit, which Minutes the presiding Sheriff shall sign; and the Clerk shall retain the Oaths of the several Claimants, subject to the Exhibition thereof in his Hands till the Election shall be determined, when he shall deliver the same to the

Trustee; and when the Sheriff or Sheriff Substitute is not present the Creditors shall elect a Preses and (if the Sheriff Clerk or a Depute be not present) a Clerk; and the Preses shall mark the Oaths and Productions with his Initials, and sign the Minutes; and the Clerk shall, in the Presence of the Meeting, write the Minutes, and enter therein the Names and Designations of the Creditors or Mandatories, and the Amount for which they Claim, and any other Circumstances relating to the said Meeting; and the Creditors or their Mandatories who have produced their Oaths and Documents of Debt, and who have been entered in the Minutes, shall then and there elect a fit Person to be Trustee, or Two or more Trustees, to act in succession, in case of Nonacceptance, Death, Resignation, Removal, or Disqualification, and in the Case of the Sequestration of the Estates of a Company and of the Partners, One Trustee for all the Estates, or separate Trustees on the Estates of the Company and on the Estates of all or each of the individual Partners and Trustees in succession as afore said; and it shall not be lawful to elect as Trustee the Bankrupt, or any Person conjunct or confident with the Bankrupt, or who holds an Interest opposed to the general Interest of the Creditors, or whose Residence is not within the Jurisdiction of the Court of Session.

Judgment of Sheriff as to Trustee.

LXIV. If the Sheriff or ordinary Sheriff Substitute be present at the Election of Trustee, and there be no Competition for the Office, or Objection stated to the Candidate or Candidates, he shall, by a Deliverance on the Minutes, declare the Person chosen by the Creditors to be Trustee, and if there be Competition, or Objections to the Candidate or Candidates, the Sheriff or ordinary Sheriff Substitute may either forthwith decide thereon, or make Avizandum, and he shall, if necessary, make a short Note of the Objections and of the Answers, on which he shall, within *Four* Days after the Meeting, hear Parties vivâ voce, and declare the Person or Persons Trustee or Trustees in Succession whom he shall find to have been duly elected, and state the Grounds of his Decision in a Note, and the same, as well as the said short Note, shall form Part of the Process.

When Sheriff or ordinary Sheriff Substitute not present.

LXV. Provided, That when the officiating Sheriff present at the said Meeting for the Election is a Sheriff Substitute appointed to act in the Absence of the Sheriff or of the ordinary Sheriff Substitute of the County, or when the Preses has been elected by the Creditors, such Substitute or Preses (whether there be any Competition or Objection or not) shall forthwith report the Proceedings to the Sheriff or ordinary Sheriff Substitute; and the Oaths of the several Claimants shall, if the Sheriff Clerk or his Depute be present, remain in his Possession, or, if he be not present, shall be transmitted to the Sheriff Clerk by the Preses, to be retained by him till the Trustee shall

shall be finally appointed, when he shall deliver the same to such Trustee; and if there be no Competition or Objection the Sheriff or ordinary Sheriff Substitute shall declare the Person or Persons elected Trustee or Trustees in succession; and if there be Competition or Objection the Parties shall, within *Four* Days from the Date of the said Meeting, lodge in the Hands of the Sheriff Clerk short Notes of Objections, and the Sheriff or ordinary Sheriff Substitute shall forthwith hear Parties thereon vivâ voce, and give his Decision, and state the Grounds thereof in a Note, which Note, as well as the said short Notes, shall form Part of the Process.

Judgment of Sheriff as to Trustee final.

LXVI. The said Judgment of the Sheriff or Sheriff Substitute declaring the Person or Persons elected to be Trustee or Trustees in succession, shall be given with the least possible delay; and such Judgment shall be final, and in no Case subject to Review in any Court or in any Manner whatever.

Caution to be found by Trustee.

LXVII. The Creditors shall, at the said Meeting for Election of a Trustee, fix a Sum for which the Trustee shall find Security for his Intromissions and Performance of the Duties and Rules hereby enacted, and shall also decide on the Sufficiency of the Caution offered by the respective Competitors; and the Person declared to be Trustee shall forthwith lodge with the Sheriff Clerk a Bond of Caution signed by the Trustee and his Cautioner, in the Form of the Schedule (C.) hereunto annexed, which Bond shall be furnished to him by the Sheriff Clerk.

Act and Warrant in favour of Trustee.

LXVIII. On the Decision of the Sheriff or Sheriff Substitute being given, declaring the Person elected Trustee, and on a Bond by the Trustee and his Cautioner being duly lodged as aforesaid, the Sheriff shall confirm his Election as Trustee, which Confirmation shall be final, and not subject to Review in any Court or in any Manner whatever; and the Sheriff Clerk shall issue an Act and Warrant in the Form of Schedule (D.) hereunto annexed to the Trustee, and the Trustee shall immediately transmit a Copy of the said Act and Warrant to the Accountant in Bankruptcy, who shall make an Entry of the Name and Designation of the Trustee in the Register of Sequestrations, and the said Act and Warrant shall be an effectual Title to the Trustee to perform the Duties hereby imposed on him, and shall be Evidence of his Right and Title to the said Estates, for the Purposes of this Act; and a Copy of the said Act and Warrant in favour of the Trustee, purporting to be certified by the Accountant in Bankruptcy, and to be authenticated by One of the Judges of the Court of Session, shall be received in all Courts and Places within England, Ireland, and Her Majesty's other Dominions as primâ facie

To be a complete Title to him.

Evidence of the Titles without Proof of the Authenticity of the Signatures or of the official Character of the Persons signing, and shall entitle the Trustee to recover any Property belonging or Debt due to the Bankrupt, and to maintain Actions, in the same Way as the Bankrupt might have done if his Estates had not been sequestrated.

Removal or Resignation of Trustee.

LXIX. A Majority in Number and Value of the Creditors present at any Meeting duly called may remove the Trustee, or accept of his Resignation; and *One Fourth* of the Creditors in Value may at any Time apply by Petition to the Lord Ordinary for Removal of the Trustee, and the Lord Ordinary shall order the said Petition to be served on the Trustee, and intimated in the Gazette; and if the Lord Ordinary shall be satisfied that sufficient Reason has been shown, he shall remove the Trustee, and appoint a Meeting of the Creditors to be held for devolving the Estate on the Trustee next in succession, or electing a new Trustee; and if the Trustee shall die, resign, or be removed, or remain at any One Time for *Three* Months furth of Scotland, any Commissioner, or any Creditor ranked or claiming and entitled to be ranked on the Estate, may apply to the Sheriff for an Order to hold a Meeting for devolving the Estate on the next Trustee in succession, or electing a new Trustee; and the Sheriff shall grant Warrant to hold such Meeting at a certain Time and Place, which shall be advertised in the Gazette by the Commissioner or Creditor so applying, and at the Time and Place so appointed the Creditors at such Meeting may devolve the Estate on the Trustee next in succession, or elect a new Trustee; and when the Estate is devolved on such Trustee the said Creditors shall fix the Amount for which he shall find Security, and on a Bond being lodged the Sheriff shall confirm him, and an Act and Warrant shall be issued and recorded in the same Way and to the same Effect as in the last Election of a Trustee; and in like Manner in all Cases of a new Election of a Trustee the Procedure shall take place in the same Way as is herein-before provided for the Case of the First Election; and the succeeding or new Trustee shall be vested with the Powers and perform the Duties and be subject to the same Rules as are herein-before provided, and shall call to account the former Trustee, or his Heirs or Representatives.

Election of a new Trustee.

Election of Commissioners.

Election of Commissioners.

LXX. At the Meeting for Election of a Trustee the Creditors present or their Mandatories shall, after the Election of the Trustee, elect *Three* Commissioners (if there be so many Creditors who have claimed), who shall be either Creditors or Mandatories of Creditors, and the same Proceedings shall take place in regard to their Election as is provided in regard to the Election of Trustee (except that they shall

shall not be bound to find Security); and the Sheriff shall decide finally who are the Persons duly elected, and declare their Election by a Deliverance in the Sederunt Book, which shall entitle them to act without further Confirmation, and a Majority of them shall be a Quorum: Provided that no Person shall be eligible as a Commissioner who is disqualified to be a Trustee; and any Mandatory who has been elected a Commissioner shall lose that Office, upon written Intimation being sent by his Constituent to the Trustee that he has recalled the Mandate, and the Trustee shall immediately record the Intimation in the Sederunt Book; and the Trustee shall, in all Cases where a Commissioner has declined to act, or resigned, or become incapacitated, call a Meeting of Creditors for the Purpose of electing a new Commissioner, and such Commissioner shall be elected in manner herein-before provided.

Protection and Allowance to Bankrupt.

Protection to Bankrupt.

LXXI. At the said Meeting for the Election of a Trustee, or at the Meeting held after the Examination of the Bankrupt, or at any Meeting called for the Purpose, the Majority in Number and Value of the Creditors present may resolve that the personal Protection of the Bankrupt ought to be renewed for such Time as they may think fit, and in such Case the Trustee shall apply to the Sheriff, who shall renew the Protection, and the Deliverance, by him renewing the same, or an Extract thereof signed by the Sheriff Clerk, shall have the same effect as the original Warrant of Protection.

Allowance to Bankrupt.

LXXII. At the said Meeting for Election of a Trustee, or at the Meeting held after the Examination of the Bankrupt, or at any Meeting called for the Purpose, *Four Fifths* in Value of the Creditors present may authorize Payment from Time to Time to the Bankrupt, or to the Partners of a Company, (if the Sequestration be of a Company Estate,) of such Sum out of the Estate as they shall think proper for Sustenance, until the Period assigned for Payment of the Second Dividend, but such Allowance shall not exceed *Three Guineas* per Week to the Bankrupt, or to each individual Partner of a Company, from the Date of Sequestration to the Period aforesaid, and no Allowance shall be given if the Bankrupt shall not have complied with the Provisions of this Act: Provided always, that if it shall at any Time be the Opinion of a Majority of the Creditors present at a regular Meeting that it is for the Interest of the Estate that a special Allowance should be farther made to the Bankrupt, and if the Accountant in Bankruptcy shall report in its Favour, it shall be competent for either Division of the Court, on Application by the Trustee, with the said Concurrence of Creditors, and Report by the Accountant, to award such Allowance, which shall then be payable out of the Estate.

Duties of Trustee and Commissioners.

Record of Abbreviate of his Confirmation.

LXXIII. The Trustee, within *Twenty-one* Days after his Election is confirmed, shall present an Abbreviate, signed by him or his Agent, in the Form of Schedule (E. No. 1.), hereunto annexed, to the Keeper of the Register of Abbreviates of Adjudications, who shall forthwith record the same, and write and subscribe a Certificate on the said Abbreviate in the Form also specified in the said Schedule (E. No. 2); and the like Proceeding shall take place within *Twenty-one* Days after the Election of each new Trustee shall be confirmed.

Trustee to take possession of Estate and Books, and make up Inventory.

LXXIV. The Trustee shall, as soon as may be after his Appointment, take Possession of the Bankrupt's Estate and Effects, and of his Title Deeds, Books, Bills, Vouchers, and other Papers and Documents, and also make up an Inventory of such Estate and Effects, and a Valuation showing the estimated Value and the annual Revenue thereof, and shall transmit Copies thereof to the Office of the Accountant in Bankruptcy.

Bankrupt to make up State of his Affairs:

LXXV. The Bankrupt shall with all Despatch, and before the Time appointed for the Election of a Trustee, make up and deliver to the Clerk to the Sequestration a State of his Affairs, specifying his whole Property, wherever situated, the Property in expectancy or to which he may have an eventual Right, the Names and Designations of his Creditors and Debtors, and the Debts due by and to him, and a Rental of his heritable Subjects, which State and Rental shall be subscribed by the Bankrupt, and preserved by the Clerk to the Sequestration, until the Trustee be elected and confirmed, and shall then be delivered to the Trustee, and Abstracts thereof shall be engrossed in a Sederunt Book to be kept by the Trustee; and the Bankrupt shall at all Times give every Information and Assistance necessary to enable the Trustee to execute his Duty; and if the Bankrupt fail to do so, or to grant any Deed which may be requisite for the Recovery of his Estate, the Trustee may apply to the Sheriff to compel him to give such Information and Assistance, and to grant such Deeds, under the Penalty of Incarceration and of Forfeiture of the Benefit of this Act, and unless Cause be shown to the contrary the Sheriff shall issue a Warrant of Incarceration accordingly.

And to give Information and grant Deeds.

Trustee to recover Funds:

LXXVI. The Trustee shall manage, realize, and recover the Estate belonging to the Bankrupt, wherever situated, and convert the same into Money, according to the Directions given by the Creditors at any Meeting, and if no such Directions are given, he shall do so with the Advice of the Commissioners; and he shall lodge all Money which he shall recover in such Bank as *Four Fifths* of the Creditors in Number and Value at any General Meeting shall appoint, and failing

failing such Appointment, in One or other of the following Banks; videlicet, the Bank of Scotland, the Royal Bank of Scotland, the Bank of the British Linen Company, the Commercial Bank of Scotland, or the National Bank of Scotland (provided that the Bank be not One in which the Trustee shall be an acting Partner, Manager, or Cashier); and the Money shall be lodged in the Name of the Trustee, in his official Character under this Act, at the highest Rate of Interest which can be procured for the same; and such Bank shall, once yearly at least, balance the said Account, and accumulate the Interest with the Principal Sum, so that both shall thereafter bear Interest as Principal; and if the Bank fail to do so such Bank shall be liable to account as if such Interest had been so accumulated.

And to deposit them in Bank.

LXXVII. If the Trustee shall keep in his Hands more than *Fifty Pounds* belonging to the Estate for more than *Ten* Days, he shall pay a Sum to the Creditors at the Rate of *Twenty Pounds* per Centum per Annum on the Excess of the said Sum of *Fifty Pounds* for such Time as it shall be in his Hands beyond the said *Ten* Days; and unless the Money has been kept from innocent Causes, the Trustee shall be dismissed from his Office, upon Petition to the Lord Ordinary or Sheriff by any Creditor, and have no Claim to Remuneration.

Penalty on Trustee retaining Funds.

LXXVIII. The Trustee shall keep a Sederunt Book, in which he shall record all Minutes of Creditors and of Commissioners, States of Accounts, Reports, and all the Proceedings necessary to give a correct View of the Management of the Estate, and he shall also keep regular Accounts of the Affairs of the Estate, and transmit to the Accountant in Bankruptcy, before each of the Periods herein assigned for Payment of a Dividend, a Copy, certified by himself, of such Accounts, in so far as not previously transmitted, and such Copies shall be preserved in the Office of the said Accountant; and the said Sederunt Book and Accounts shall be patent to the Commissioners and to the Creditors or their Agents, at all Times: Provided always, that when any Document is of a confidential Nature (such as the Opinion of Counsel on any Matter affecting the Interest of the Creditors on the Estate) the Trustee shall not be bound to insert it in the Sederunt Book, or to exhibit it to any other Person than the Commissioners, unless he be ordered by competent Authority to do so.

Trustee to keep a Sederunt Book, and send Copy of Accounts to Accountant in Bankruptcy.

LXXIX. The Commissioners shall superintend the Proceedings of the Trustee, concur with him in Submissions and Transactions, give their Advice and Assistance relative to the Management of the Estate, examine the Acts and Intromissions of the Trustee, audit his

Duties of Commissioners.

Accounts, decide as to paying or postponing Payment of a Dividend, fix his Remuneration, and may assemble at any Time to ascertain the Situation of the Bankrupt Estate, and any One of them may make such Report as he may think proper to a General Meeting of the Creditors.

Trustee and Commissioners amenable to Lord Ordinary and Sheriff.

LXXX. The Trustee and Commissioners shall be amenable to the Lord Ordinary and to the Sheriff, although resident beyond the Territory of the Sheriff, at the Instance of any Party interested, to account for their Intromissions and Management, by Petition served on them; and in case it shall appear that such Application ought not to have been made, the Party complained of shall be entitled to his full Expenses, to be either retained out of the Funds, or recovered from the Party complaining, as the Lord Ordinary or the Sheriff shall direct.

Examination of Bankrupt, &c.

Sheriff to name a Day for Bankrupt's Examination.

LXXXI. The Trustee shall, within *Eight* Days after the Date of the Act and Warrant confirming him, apply to the Sheriff to name a Day for the public Examination of the Bankrupt in open Court, and the Sheriff shall issue his Warrant for the Bankrupt to attend within the Sheriff Court House on a specified Day and at a specified Hour, being not sooner than *Seven* Days nor later than *Fourteen* Days from the Date of the Sheriff's Warrant for such Examination; and on the Sheriff granting such Warrant the Trustee shall publish an Advertisement, in Terms of Schedule (F.) hereunto annexed, in the Gazette, intimating to the Creditors his Name and Designation, his Election as Trustee, the Day, Hour, and Place fixed for the Examination of the Bankrupt, and also a specified Day, being not sooner than *Seven* Days nor later than *Fourteen* Days after the Day appointed for the Examination of the Bankrupt, or, in case of a deceased Debtor, not sooner than *Seven* Days nor later than *Fourteen* Days from the Date of the Trustee's Confirmation, and also the Hour and Place for holding a Second Meeting of the Creditors.

Sheriff may grant Warrant to bring Bankrupt for Examination.

LXXXII. It shall be competent for the Sheriff to grant a Warrant to apprehend the Bankrupt, and bring him before the Sheriff for Examination; and if the Bankrupt be incarcerated for a Debt or other Civil Obligation within Scotland, the Sheriff may grant Warrant to Magistrates and Gaolers, on receiving a Duplicate of such Warrant, and an Acknowledgment for the Person of the Bankrupt, to deliver him to the Officer presenting the same, and they shall do so accordingly; and the Sheriff may also grant Warrant to bring the Bankrupt from the Sanctuary, which Warrant shall protect against Arrest for Debt

Debt or other Civil Obligation while under Examination, and on the Way to and from Place of Examination, and shall be sufficient Authority, either within or beyond the Territory of the said Sheriff in Scotland, to Messengers-at-Arms, and to the Officers of the said Sheriff, to apprehend, transmit, detain, and incarcerate, and to Gaolers to receive and detain, the Bankrupt, until his Examination is concluded, and also for his Re-transmission after Examination to the Gaol from which he was delivered up, and Re-incarceration therein; and if the Bankrupt cannot be brought from Gaol or the Sanctuary, or cannot be examined by the Sheriff there, or is by a lawful Cause prevented from attending at the Time and Place appointed, or is in Custody on a Criminal Charge, or is abroad, the Sheriff may grant Commission to take the Examination; and the Sheriff or Commissioner may, if he shall see Cause, adjourn the Examination of this Bankrupt to an early Time, to be then fixed; and the Sheriff may, on the Application of the Trustee, order the Bankrupt to be examined as often as he shall see fit.

Apprehension and Transmission of the Bankrupt when out of Scotland.

LXXXIII. If the Bankrupt be in any Part of Great Britain and Ireland other than Scotland, the Lord Ordinary may, on Petition by the Trustee, grant Warrant to all Judges, Magistrates, Justices of the Peace, and Officers of the Law, to apprehend and transmit him to the Place of his Examination, and to enforce the same, which they are hereby required to do; and if the Bankrupt be in Prison or Custody, the Lord Ordinary may grant Warrant as aforesaid to Magistrates and Gaolers, upon receiving a Duplicate of such Warrant, and an Acknowledgment for the Person of the Bankrupt, to deliver him to the Messenger or Officer presenting such Warrant, which they shall do accordingly; and such Warrant shall be sufficient Authority for the Apprehension, Transmission, Detention, and Incarceration of the Bankrupt (when necessary for his safe Custody), and for his Re-transmission after Examination to and Re-incarceration in the Prison or Custody from which he was delivered up.

Examination of Bankrupt's Wife and others.

LXXXIV. The Sheriff may, at any Time, on the Application of the Trustee, order an Examination of the Bankrupt's Wife and Family, Clerks, Servants, Factors, Law Agents, and others, who can give Information relative to his Estate, on Oath, and issue his Warrant requiring such Persons to appear; and if they refuse or neglect to appear, when duly summoned, the Sheriff may issue another Warrant to apprehend the Person so failing to appear: Provided that when such Person is not the Bankrupt, nor his Wife, nor One of his Family, nor his Clerk or Servant, no Warrant for Apprehension shall be issued until the Expiration of *Eight* Days from the Service of the

First Warrant, unless the Trustee shall, on Oath, specify a reasonable Cause of Belief that such Person intends to leave the Country to avoid the Examination, in which case the Sheriff may forthwith issue such Warrant; which several Warrants shall be sufficient to authorize Messengers-at-Arms, or the Officers of the said Sheriff, to execute the same, either within or without the Territory of the Sheriff in Scotland as aforesaid; and if any Person liable to be examined as aforesaid cannot attend as aforesaid, the Sheriff may grant Commission to take his Examination; and such Examination, whether by the Sheriff or by a Commissioner, may be adjourned, if seen fit, to an early Time, to be then fixed: Provided that Persons, other than the Bankrupt, summoned to attend for Examination, shall be entitled to such Allowances as Witnesses are in other Cases entitled to, and the Amount of which, if disputed, shall be fixed by the Sheriff.

Bankrupt and others must answer lawful Questions, and produce Documents.

LXXXV. The Bankrupt and the said Persons shall answer all lawful Questions relating to the Affairs of the Bankrupt; and the Sheriff may order such Persons to produce for Inspection any Books of Account, Papers, Deeds, Writings, or other Documents in their Custody relative to the Bankrupt's Affairs, and cause the same, or Copies thereof, to be delivered to the Trustee.

Mode of Examination.

LXXXVI. The Examination of the Bankrupt, and of the other Persons aforesaid, shall be taken upon Oath, and shall, except in the Cases already specified, wherein a Commission is allowed to be granted, take place before the Sheriff in open Court, and the Bankrupt's Examination shall be taken and written or dictated by the Sheriff, and authenticated in the ordinary Way as a regular Deposition; but Notes of the Evidence of the other Persons foresaid shall be written by the Sheriff in the Mode prescribed by the Act passed in the Session of Parliament held in the Sixteenth and Seventeenth Year of the Reign of Her present Majesty, Chapter Fifty-three, with regard to Proofs in Civil Cases in the Sheriff Courts, except where it shall appear to him necessary to record and authenticate such Evidence, in whole or in part, in the Form of a regular Deposition.

Penalty on Refusal to answer, &c.

LXXXVII. If the Bankrupt or any of the said Persons shall refuse to be sworn, or to answer, to the Satisfaction of the Sheriff, any lawful Question put to him by the Sheriff or Trustee, or by any Creditor with Sanction of the Sheriff, or without lawful Cause shall refuse to sign his Examination, or to produce Books, Deeds, or other Documents in his Custody or Power relating to the Estate, the Sheriff may grant Warrant to commit him to Prison, there to remain until he

he comply with the Order, which Warrant shall specify the Question and Answer, Book, Deed, Document, or the Refusal to swear or to sign the Examination; and such Warrant shall not be subject to the Review of the Court of Session, but the Bankrupt or Person incarcerated may apply by written Petition (without Argument) to the Lord Ordinary for a Recal of the Warrant, and the Lord Ordinary shall order the Petition to be served on the Trustee or the said Creditor, and shall thereafter hear Parties vivâ voce, and pronounce Judgment.

Penalty on latent Partner of Bankrupt Company not coming forward.

LXXXVIII. If any latent Partner of a Company whose Estates have been sequestrated shall not, by Intimation to the Trustee, acknowledge that he is a Partner, on or before the Day appointed for the Examination of the known Partners, he shall not be entitled to the Benefits or Privileges of this Act, unless in an Application for the same he satisfy the Lord Ordinary or the Sheriff that the Omission proceeded from innocent Mistake, or Ignorance of the Proceedings, or reasonable Misconception as to his Liability as a Partner, and unless he shall then follow out all necessary Steps for remedying as far as possible the Loss and Inconvenience thence arising.

Bankrupt may correct his State, and then must take Oath inserted in this Act.

LXXXIX. The Bankrupt, before the Close of his Examination, may make such Additions to or Alterations upon the State of his Affairs as may have occurred to him to be necessary to give a full View of his Affairs, which State, with the Additions and Alterations, shall be subscribed by the Sheriff and the Bankrupt; and the Bankrupt shall then take the following Oath, which shall be engrossed in the Sederunt Book, and subscribed as aforesaid, as relative to the said State; and when the Bankrupt is a Partner with others, and examined respecting the Affairs of the Partnership, the Words of the Oath shall so far be varied as to make it applicable to the Case:

Oath.

'I DO, in the Presence of Almighty God, and as I shall answer to God at the great Day of Judgment, solemnly swear, That the 'State of my Affairs subscribed by me as relative hereto contains 'a full and true Account, to the best of my Knowledge and Belief, 'of all the Debts, of whatever nature, due to me, and of all my 'Estate and Effects, Heritable and Moveable, Real and Personal, 'wherever situated (the necessary Wearing Apparel of myself, 'my Wife and Family, only excepted), as well as of all Claims 'which I am entitled to make against any Person or Persons 'whatsoever, and of all Estate in expectancy, or Means, of whatever kind, to which I have an eventual Right by Contract of

'Marriage, Trust Deed, Settlement, Deed of Entail, or otherwise; 'and that the said State likewise contains a full and true Account of 'all Debts due by me or Demands upon me; and that I have 'delivered up the whole Books, Documents, Accounts, Title Deeds, 'and Papers of every kind belonging to me which in any way relate 'to my Affairs, and which were or are in my Possession or under my 'Power; and that I have made a full Disclosure of every Particular 'relating to my Affairs: And further, I promise and swear, That I 'will forthwith reveal all and every other Circumstance or Particular 'relative to my Affairs which may hereafter come to my Knowledge, 'and which may tend to increase or diminish the Estate in which my 'Creditors may be interested, directly or indirectly.'

Powers and Procedure of Second and subsequent Meetings of Creditors.

Report by Trustee after Bankrupt's Examination.

XC. Prior to the Meeting of Creditors after the Examination of the Bankrupt, the Trustee shall prepare a Report setting forth the State of the Bankrupt's Affairs, and an Estimate of what the Estate may produce, which Report he shall exhibit at the Meeting of Creditors, and give all Explanations relative thereto; and the Creditors assembled at such Meeting may receive an Offer of Composition, as herein-after provided, and may, either at this or any other Meeting, give Directions for the Recovery, Management, and Disposal of the Estate; and when any Part of the Estate consists of Land or other Heritable Subjects, it shall be optional to the Creditors to determine whether the Trustee is to bring the said Heritable Subject to Judicial Sale, or to dispose thereof by voluntary Public Sale.

Powers of Creditors over Estate.

Proceedings if Bankrupt do not make a fair Surrender.

XCI. If it shall appear to a Majority of the Creditors in Number and Value assembled at any Meeting after the Examination of the Bankrupt, that he has not made a full and fair Surrender of his Estate, or that he has disposed of or concealed any Part of his Funds, to the Prejudice of his Creditors, or that his Bankruptcy has been fraudulent, they may direct a Meeting to be called for taking the Subject into consideration, on *Seven* Days Notice, and the said Meeting, if they see Cause, may authorize the Trustee to proceed against him in Terms of Law, at the Expense of the Estate.

Rules as to computing Majorities.

XCII. All Questions at any Meeting of Creditors shall be determined by the Majority in Value of those present and entitled to vote, unless in the Cases herein otherwise provided for; and when, for the Purpose of voting, the Creditors are required to be counted in Number, no Creditor whose Debt is under *Twenty Pounds* shall be reckoned in Number, but his Debt shall be computed in Value.

Calling

Calling of subsequent Meetings.

When Meetings to be called.

XCIII. The Trustee or any Commissioner may at any Time call a Meeting of the Creditors, and the Trustee shall call such Meeting when required by *One Fourth* in Value of the Creditors ranked on the Estate or by the Accountant in Bankruptcy.

Notice of Meetings.

XCIV. Notice of the Day, Hour, Place, and Purpose of all Meetings of Creditors under this Act shall be advertised in the Gazette *Seven* Days at least before the Day of the Meeting, and such Meeting may be adjourned to the following Day.

No Notice to be sent in certain Cases.

XCV. It shall not in any Case be necessary to send any Notification of the Day or Place of Meetings by Post to any Creditor whose Debt shall be under *Twenty Pounds*, unless such Creditor shall have given Directions in Writing that such Notification shall be sent; and no Notification shall be sent to any Creditor who has directed that none shall be sent.

Extent of Trustee's Right.

Vesting of Estate in Trustee.

XCVI. The Act and Warrant of Confirmation in favour of the Trustee shall ipso jure transfer to and vest in him or any succeeding Trustee, for Behoof of the Creditors, absolutely and irredeemably, as at the Date of the Sequestration, with all Right, Title, and Interest, the whole Property of the Debtor, to the Effect following:

Vesting of Moveable Estate.

1st. The Moveable Estate and Effects of the Bankrupt, wherever situated, so far as attachable for Debt, to the same Effect as if actual Delivery or Possession had been obtained, or Intimation made at that Date, subject always to such preferable Securities as existed at the Date of the Sequestration, and are not null or reducible:

Vesting of Heritable Estate in Scotland.

2d. The whole Heritable Estate belonging to the Bankrupt in Scotland, to the same Effect as if a Decree of Adjudication in Implement of Sale, as well as a Decree of Adjudication for Payment and in Security of Debt, subject to no legal Reversion, had been pronounced in favour of the Trustee, and recorded at the Date of the Sequestration, and as if a Poinding of the Ground had then been executed, subject always to such preferable Securities as existed at the Date of the Sequestration, and are not null and reducible, and the Creditors Right to poind the Ground as herein-after provided; and the Right of the Trustee shall not be challengeable on the Ground of any prior Inhibition (saving the Effect which such Inhibition may be entitled to in the ranking of the Creditors): Provided always, that such Transfer and vesting

of the Heritable Estate shall have no Effect upon the Rights of the Superior, nor upon any Question of Succession between the Heir and Executor of any Creditor claiming on the sequestrated Estate, nor upon the Rights of the Creditors of the Ancestor (except that the Act and Warrant of Confirmation shall operate in their favour as complete Diligence):

Vesting of Real Estates in England, Ireland, and other British Dominions.

3d. The whole Real Estate belonging to the Bankrupt situated in England, Ireland, or in any of Her Majesty's Dominions: Provided that where, according to the Laws of England, Ireland, or other Her Majesty's Dominions, any Deed or Conveyance would require Registration, Enrolment, or recording, the Act and Warrant of Confirmation shall be so registered, enrolled, or recorded according to the Laws of England, Ireland, or other Her Majesty's Dominions; and if any Purchase is made by any Person for valuable Consideration, and without Notice of the Sequestration, prior to the Registration, Enrolment, or recording of the said Act and Warrant of Confirmation, such Purchase shall not be invalidated by the Existence of such Act and Warrant, or the subsequent Registration, Enrolment, or recording thereof.

Acquisitions of Bankrupt after the Sequestration to belong to the Creditors.

XCVII. If any Estate, wherever situated, shall, after the Date of the Sequestration, and before the Bankrupt has obtained his Discharge, be acquired by him, or descend or revert or come to him, the same shall ipso jure fall under the Sequestration, and the full Right and Interest accruing thereon to the Bankrupt shall be held as transferred to and vested in the Trustee, as at the Date of the Acquisition thereof or Succession, for the Purposes of this Act; and the Trustee shall, on coming to the Knowledge of the Fact, present a Petition setting forth the Circumstance to the Lord Ordinary, who shall appoint Intimation, to be made in the Gazette, and require all concerned to appear within a certain Time for their Interest; and after the Expiration thereof, and no Cause shown to the contrary, the Lord Ordinary shall declare all Right and Interest in such Estate which belongs to the Bankrupt to be vested in the Trustee, as at the Date of the Acquisition thereof or Succession thereto, to the same Effect as is herein-before enacted in regard to the other Estates; and the Proceeds thereof, when sold, shall be divided in Terms of this Act; and if the Bankrupt do not immediately notify to the Trustee that such Estate has been acquired, or has come to him as aforesaid, he shall forfeit all the Benefits of this Act, and it shall be competent to the Trustee to examine him as aforesaid in relation thereto: Provided always, that the Rights of the Creditors of the Person from whom such Estate shall come or descend to the Bankrupt shall be reserved entire.

XCVIII. Any

Subjects improperly included in Sequestration may be struck out.

XCVIII. Any Person claiming Right to any Estate included in the Sequestration may present a Petition to the Lord Ordinary, praying to have such Estate struck out of the Sequestration, and the Lord Ordinary shall order the Trustee to answer within a certain Time, and on Expiration of such Time he shall proceed to dispose of the Application.

Trustee may complete feudal Titles, or grant such Rights as Bankrupt could do.

XCIX. The Bankrupt shall, if required, grant all Deeds necessary for recovering his Estates and feudally vesting his Heritable Estate in the Trustee for the Purposes of this Act; and if the Bankrupt's Title to any Estate has not been completed, the Trustee may complete Titles in his own Person, whom failing, in favour of any Trustee who may succeed him, for Behoof of the Creditors, or in the Person of the Bankrupt; and Superiors shall, if required, enter the Trustee or the Purchaser from him in Terms of Law; and the Trustee may, without making up a feudal Title in his Person, and without Concurrence of the Bankrupt, grant Conveyances of the Heritable Estate belonging to the Bankrupt, with such Procuratories, Precepts, or other Warrants, as the Bankrupt might competently have granted, which Conveyances shall be as effectual to the Purchaser as if they had been granted by the Bankrupt with Concurrence of the Trustee, and shall not be affected by any Inhibition against the Bankrupt, reserving the Effect of such Inhibition in the ranking.

Trustee may get Property transferred to him, although the Heir of the Bankrupt has made up Titles.

C. When Sequestration is awarded against the Estate of a Person after his Death, and his Successor has made up a Title to his Heritable Estate, the Trustee may apply by Petition to the Lord Ordinary, praying that such Estate shall be transferred to and vested in him, and the Lord Ordinary shall order the Petition to be served upon such Successor, and require him to answer the same within *Fourteen* Days; and an Abbreviate of such Petition and Deliverance, in Terms of the Schedule (A. No. 3.), being recorded in the Register of Inhibitions kept at Edinburgh, it shall have the Effect of an Inhibition, and the Keeper thereof shall write on the said Petition a Certificate in Terms of the said Schedule (A. No. 2.); and if on Expiration of that Period no Cause is shown to the contrary, the Lord Ordinary shall declare such Estate to be transferred to and vested in the Trustee, as at the Date of the Sequestration, to the same Effect as is herein-before provided in regard to the Act and Warrant of Confirmation; and the Trustee shall, within *Eight* Days thereafter, cause an Abbreviate of such Petition and Deliverance to be recorded in the Register of Abbreviates of Adjudications, in Terms of the Schedule (E. No. 3.) hereto annexed, and the Keeper of the said Register shall write on such Abbreviate a Certificate in Terms of the said Schedule (E. No. 2.)

Decree to be recorded in the Register of Adjudications.

Effect of Sequestration on Ranking of Creditors.

Sequestration equivalent to an Adjudication in Competition;

CI. The Sequestration shall, as at the Date thereof, be equivalent to a Decree of Adjudication of the Heritable Estates of the Bankrupt for Payment of the whole Debts of the Bankrupt, Principal and Interest accumulated at the said Date, and when it is dated within *Year and Day* of any effectual Adjudication, the Estate shall be disposed of under the Sequestration according to the Provisions of this Act: Provided always, that nothing herein contained shall affect the Rights of any Heritable Creditor holding a Power of Sale preferable to the Trustee.

and to Arrestment and Poinding.

Diligence on or after Sixtieth Day before Sequestration, or after it, ineffectual.

Expenses of Diligence.

CII. The Sequestration shall, as at the Date thereof, be equivalent to an Arrestment in Execution and Decree of Forthcoming, and to an executed or completed Poinding; and no Arrestment or Poinding executed of the Funds or Effects of the Bankrupt on or after the *Sixtieth* Day prior to the Sequestration shall be effectual; and such Funds or Effects, or the Proceeds of such Effects, if sold, shall be made forthcoming to the Trustee: Provided, that any Arrester or Poinder before the Date of the Sequestration who shall be thus deprived of the Benefit of his Diligence shall have Preference out of such Funds or Effects for the Expense bonâ fide incurred by him in such Diligence.

Interruption of Prescription.

CIII. The presenting of or concurring in a Petition for Sequestration, or the lodging a Claim in Terms of this or any former Act in the Hands of the Trustee, or the Sheriff officiating, or Preses at any Meeting of Creditors, shall interrupt Prescription of the Creditor's Debt so petitioning, concurring, or claiming, and in regard to such Debt shall bar the Effect of any Statute of Limitations in England or Ireland, or Her Majesty's Dominions, and although this Sequestration shall be recalled, such Interruption or Bar shall, notwithstanding, be effectual.

Preferences in case of a deceased Debtor.

CIV. When the Sequestration of the Estates of a deceased Debtor is dated within *Seven* Months after his Death, any Preference or Security for any prior Debt acquired by legal Diligence on or after the *Sixtieth* Day before his Death, or subsequent to his Death, and any Preference or Security acquired for a prior Debt by any Act or Deed of the Debtor which has not been lawfully completed for a Period of more than *Sixty* Days before his Death, and any Confirmation as Executor-Creditor after the Debtor's Death, shall in these several Cases be of no Effect in competition with the Trustee; and the Estates and Effects over which such Preferences or Securities shall have been obtained, or of which Confirmation shall have been expede, shall belong to the Trustee: Provided always, that the Creditor

Creditor who is so deprived of the Benefit of his Diligence or Confirmation shall have Preference for Payment out of the said Estates or Effects of the Expenses bonâ fide incurred by him in such Diligence or Confirmation.

Acts and Payments by Bankrupt after Sequestration null, except in certain Cases.

CV. All Payments and Preferences or Securities obtained by or granted to prior Creditors, and all Acts done or Deeds granted by the Bankrupt after the Date of the Sequestration and before his Discharge out of or in relation to the Estate (unless with the Consent of Trustee), shall, in the event of Sequestration being awarded, be null and void; and the Trustee shall be entitled to such Preference or Security, and to any Money so paid, deducting any Expense bonâ fide incurred, but if a bonâ fide Purchaser is in possession of Moveable Effects received from the Bankrupt after Sequestration, and when ignorant thereof for a Price paid, or which he is ready to pay, he shall not be obliged to restore the Effects; and if a Debtor, when ignorant of the Sequestration, have paid his Debt bonâ fide to the Bankrupt, he shall not be obliged to pay it a Second Time to the Trustee; and if the Possessor of any Bill or Promissory Note, with Recourse on other Parties, which is payable by the Bankrupt, or of a Security for a Debt due by the Bankrupt, shall have received Payment of his Debt from the Bankrupt in Ignorance of the Sequestration, and given up such Bill, Promissory Note, or Security to the Bankrupt, such Person shall not be liable to repay to the Trustee the Amount so received, unless the Trustee shall replace him in the Situation in which he stood, or reimburse him for any Loss or Damage.

Realization of Heritable Estate.

Sale of Heritable Estate by Creditor.

CVI. A Creditor who holds a Security over the Heritable Estate of the Bankrupt, preferable to the Right of the Trustee, with a Power to sell, may sell, in Terms of his Bond, notwithstanding the Sequestration, and it shall be competent to the Trustee to concur therein in order to fortify the Title; and the Trustee or any posterior Heritable Creditor preferable to him may, by Petition to the Lord Ordinary or to the Sheriff, compel the said Creditor and the Purchaser to account for any Reversion of the Price.

Creditor infeft on Adjudication may sell.

CVII. A Creditor who has been infeft for *Two* Years on a Decree of Adjudication, or Creditors who have been conjoined *pari passu* in such Decrees and have been infeft thereon for *Two* Years, shall have Power to sell the Lands or Heritages adjudged by him or them, irredeemably, in like Manner and under the same Provisions as an Heritable Creditor, with a Power of Sale under the Act passed in the Session of Parliament held in the Tenth and Eleventh Year of the Reign of Her present Majesty, Chapter Fifty: Provided always,

that he or they shall be liable to account to the Debtor or his Representatives for the Price received by him or them under the said Sale, after Deduction of his or their Debts, Principal, Interest, Penalty, and Expenses, as specified in the said Act.

Sale by Trustee with Concurrence of Heritable Creditors.

Discharge of Burdens on Sale.

CVIII. If a Creditor holding an Heritable Security, with a Power to sell, concur with the Trustee in bringing the Estate to Sale, the Trustee shall sell the same in his own Name, and the Articles of Roup and Conveyance to the Purchaser shall be executed by the Trustee, with Consent of the said Creditor and the Commissioners, and the Price shall be paid by the Purchaser to the Parties legally entitled thereto, and in so far as not paid at the Time of the Delivery of the Conveyance, it shall be consigned in the Bank in which the Money of the sequestrated Estate is deposited; which Payment or Consignation of the Price shall free and discharge the Estate sold and the Purchaser from the Security of the consenting Creditor, whether the Debt in such Security be satisfied or not, and from all Securities postponed to the Security of such Creditor.

Sale by Trustee alone.

Fixing of Upset Price.

CIX. If the Creditors, at the Meeting held after the Examination of the Bankrupt, or at any other Meeting called for the Purpose, resolve that the Trustee shall dispose of the Heritable Estate by Public Sale or bring it to Judicial Sale, and if such Resolution has been made before an Heritable Creditor having a Power of Sale shall have commenced Proceedings for Sale, or if such Proceedings, after being commenced prior to the Date of such Resolution, have thereafter been unduly delayed, such Creditor shall not be entitled to interfere with the Sale by the Trustee; and if a Public Sale of the Heritable Estate be resolved on, such Sale shall be made by Auction at the Upset Price and in the Manner which shall be fixed by the Trustee, with Consent of the Commissioners.

Sale without Consent of Creditors on Application to the Court.

Discharge of Burdens by Authority of the Court.

CX. In the event of there being an Heritable Creditor or Creditors holding Securities over the Estate preferable to the Right of the Trustee, but who have not commenced or duly followed out Proceedings to sell before the Creditors have resolved to sell in manner before mentioned, and who shall not consent to a Sale by the Trustee, it shall be competent to the Trustee to apply, by summary Petition to either Division of the Court of Session, for Authority to sell, with which Petition shall be produced a Report from the Accountant in Bankruptcy, bearing that he concurs in the Proposal to sell, and specifying the Sum which he recommends as the Upset Price; and the Court, after hearing the Heritable Creditors not consenting, and all Parties interested, shall grant or refuse the Prayer of the Petition, and if they grant the same, they shall fix the Upset Price; and it shall be also competent for them to declare that the Conveyance to the Purchaser

Purchaser by the Trustee, on Payment of the Price, or Consignation thereof as aforesaid, shall operate a Discharge of the Estate from all Burdens, as in a Ranking and Sale, but reserving to the Heritable Creditors a Real Right to the Price in the Order of their several Securities; and the Court shall also decide as to the Expense of these Proceedings, and whether it shall form, in whole or in part, a Burden on the Price.

Sale without Application to Court.

CXI. If no Application is made by the Trustee as herein-before provided, the Sale may, notwithstanding, proceed in Terms of the Resolution of the Creditors to that Effect, but the Payment or Consignation of the Price, and the Conveyance of the Estate by the Trustee to the Purchaser, shall, in that Case, free and discharge the Estate from the Securities of the non-consenting Creditors, whose Rights are preferable to the Right of the Trustee, only in so far as the Debts in their Securities are satisfied by such Payment or Consignation, but shall discharge the Estate from all Securities which are not so preferable and from all Diligence not completed at the Date of the Sequestration.

Trustee may with Approval of Accountant sell by private Bargain.

CXII. It shall be competent for the Trustee, with Concurrence of a Majority of the Creditors in Number and Value, and of the Heritable Creditors, if any, and of the Accountant in Bankruptcy, to sell the Heritable Estate by private Bargain, on such Terms and Conditions regarding Price and otherwise, as the Trustee, with Concurrence of these Parties, may fix.

Trustee to make up a Scheme of Ranking and Division of Price.

CXIII. It shall be the Duty of the Trustee to make up a Scheme of Ranking and Division of the Claims of the Heritable Creditors and other Creditors on the Price of the Heritable Estate sold; and such Scheme of Ranking and Division being brought before the Lord Ordinary or before either Division of the Court of Session, with a Report thereon by the Accountant in Bankruptcy, shall be disposed of in like Manner as a Scheme of Division prepared under a Ranking and Sale, any Interlocutor of the Lord Ordinary thereon being subject to Review in the usual Form; and the Judgment thereon shall be a Warrant for Payment out of the Price against the Purchaser of the Heritable Estate.

Court may grant Interim Warrant for Payment out of Price.

CXIV. It shall be competent for the Lord Ordinary or the Court, on Application by the Trustee or any Creditor interested, with a Report thereon by the Accountant in Bankruptcy, and on Cause shown, to grant an Interim Warrant on the said Price for Payment of preferable Claims, or to authorize an Interim Scheme of Division out of the said Price, which Scheme of Division shall be disposed of as the Scheme of Division already provided for.

Heritable Creditor's Right to poind the Ground limited.

CXV. No Poinding of the Ground which has not been carried into execution by Sale of the Effects at least *Sixty* complete Days before the Day of the Sequestration, and no Decree of Maills and Duties on which a Charge has not been given at least *Sixty* complete Days before the said Day, shall (except to the Extent herein-after provided) be available in any Question with the Trustee: Provided always, that no Creditor who holds a Security over the Heritable Estate preferable to the Right of the Trustee shall be prevented from executing a Poinding of the Ground, or obtaining a Decree of Maills and Duties after the Sequestration, but such Poinding or Decree shall, in competition with the Trustee, be available only for the Interest on the Debt for the current Term, and for the Arrear of Interest for *One* Year immediately before the Commencement of such Term.

Landlord's Hypothec saved.

CXVI. Nothing in this Act contained shall affect the Landlord's Right of Hypothec.

Creditors may purchase.

CXVII. When any Estate is sold by virtue of this Act, it shall be lawful for any Creditor to purchase the same; but the Trustee or Commissioners shall not be entitled to purchase.

Payment of Dividends.

Realized Estate to be a Fund of Division.

CXVIII. The whole Estate, when reduced into Money, shall, after paying all necessary Charges and a Commission to the Trustee, be divided among those who were Creditors of the Bankrupt at the Date of the Sequestration, ranked according to their several Rights and Interests.

Notice for lodging Claims.

CXIX. It shall be the Duty of the Trustee, immediately after the Examination of the Bankrupt, to notify, by Circular Letter transmitted through the Post Office to every Creditor mentioned in the State of Affairs which is hereby directed to be made by the Bankrupt, the Period within which Claims should be lodged.

Creditor to produce Oath, &c. Two Months before Payment of First Dividend, and One Month before subsequent Dividends.

CXX. To entitle any Creditor to the Payment of the First Dividend, he shall produce, as is herein-before directed, his Oath and Grounds of Debt at least *Two* Months before the Time fixed for Payment of the First Dividend, when such Time of Payment shall not have been accelerated, or *One* Month before the Time fixed for Payment of the First Dividend where such Time shall have been accelerated; and to entitle any Creditor to Payment of any of the subsequent Dividends, he shall produce, as aforesaid, his Oath and Grounds of Debt at least *One* Month before the Time fixed for Payment of the Dividend which he means to claim: Provided, that if

if a Creditor has not produced his Oath and Grounds of Debt in Time to share in the First Dividend, but has done so in Time to share in the Second Dividend, he shall be entitled, on Occasion of Payment of the Second Dividend, to receive out of the first of the Fund (if there be sufficient for that Purpose) a Sum equal to the Dividend he would have drawn, if he had claimed in Time for the First Dividend; and the same Rule shall apply as to all subsequent Dividends.

Creditors resident abroad may lodge Oath at later Periods.

CXXI. When any Creditor not resident within Great Britain or Ireland at the Date of the Deliverance awarding Sequestration, or at any Time within *Four* Months thereafter, shall lodge his Oath and Grounds of Debt *Fourteen* Days previous to any Time fixed for Payment of a Dividend, though not in Time to entitle such Creditor to participate in such Dividend, the Trustee shall make such Deduction from the divisible Fund as shall be equal to the Dividend which would have been payable to such Foreign Creditor had his Oath and Grounds of Debt been timeously lodged and his Claim been sustained; and the Sum so deducted shall form Part of the Fund for Division on the Occasion of Payment of the next Dividend.

Trustee to make up and exhibit to Commissioners State of Funds.

CXXII. Immediately on the Expiration of *Four* Months from the Date of the Sequestration, the Trustee shall proceed to make up a State of the whole Estate of the Bankrupt, of the Funds recovered by him, and of the Funds outstanding (specifying the Cause why they have not been recovered), and of his Intromissions, and generally of his Management; and within *Fourteen* Days after the Expiration of the said *Four* Months the Commissioners shall meet and examine the said State, and ascertain whether the Trustee has lodged the Moneys recovered by him in Bank or not, and if he has failed to do so they shall debit him with a Sum at the Rate of *Twenty Pounds* on every *Hundred Pounds* not so lodged, and so after that Rate on any larger or smaller Sum, being not less than *Fifty Pounds;* and they shall audit his Accounts, and settle the Amount of his Commission, and authorize him to take Credit for such Commission in his Accounts with the Estate; and they shall certify, by a Writing under their Hands engrossed in the Sederunt Book, the Balance due to or by the Trustee in his Account with the Estate as at the Expiration of the said *Four* Months; and they shall declare whether any and what Part of the net Produce of the Estate, after making a reasonable Deduction for future Expenses, shall be divided among the Creditors.

Commissioners to resolve as to Payment of Dividend, &c.

Trustee to examine and reject or ad-

CXXIII. The Trustee shall also within the said *Fourteen* Days examine the Oaths and Grounds of Debt, and in Writing

mit Claims, and make up List of Creditors entitled to Payment of Dividend;

Writing reject or admit them, or require further Evidence in support thereof, for which Purpose he may examine the Bankrupt, Creditor, or any other Party on Oath relative thereto; and in case he shall reject any Claim, he shall in his Deliverance state the Grounds of such Rejection; and he shall complete the List of the Creditors entitled to draw a Dividend, specifying the Amount of their Debts, with Interest thereon to the Date of the Sequestration, and distinguishing whether they are ordinary Creditors or preferable or contingent, and he shall make up a separate List of any Creditors whose Claims he has rejected in whole or in part.

and to publish and send Notices of Payment of Dividend.

CXXIV. The Trustee shall give Notice in the Gazette published next after Expiration of the said *Fourteen* Days, of the Time and Place of the Payment of the Dividend, and also notify the same by Letters put into the Post Office on or before the First lawful Day after the said *Fourteen* Days, addressed to each Creditor, in which he shall specify the Amount of the Claim and proposed Dividend thereon, and when he has rejected any Claim he shall notify the same to the Claimant by Letter as aforesaid, which shall also contain a Copy of his Deliverance, and specify the Amount of the Claim, and the Dividend to which the rejected Claimant would be entitled if not rejected, or as near to the Amount thereof as Circumstances will permit; and a Certificate by the Trustee or an Execution by a Messenger or Sheriff Officer that such Letters have been put into the Post Office shall be sufficient Evidence thereof;

Creditors may appeal within a limited Period.

and if any Creditor be dissatisfied with the Decision of the Trustee, he may appeal by a short written Note to the Lord Ordinary or to the Sheriff; but if no such Note be lodged with and marked by the Bill Chamber or Sheriff Clerk (as the Case may be) before the Expiration of *Thirty* Days from the Date of the Publication in the Gazette of the said Notice, the Decision of the Trustee shall be final and conclusive so far as regards that Dividend; and in case the Claim have been rejected, such Decision shall be without Prejudice to any new Claim being afterwards made in reference to future Dividends, but which new Claim shall not disturb prior Dividends.

Trustee to make up a Scheme of Division.

CXXV. The Trustee shall, before the Expiration of *Six* Months from the Date of the Sequestration, make up a Scheme of Division of the Fund directed by the Commissioners to be divided, and apportion the same, according to their respective Rights, among those Creditors whose Claims have been sustained by him or by the Lord Ordinary or Sheriff, or who shall have appealed against his Decision, and which Scheme shall be patent to all concerned.

CXXVI. On

Dividends to be paid, and those disputed or claimed by contingent Creditors to be lodged in Bank.

CXXVI. On the First lawful Day after the Expiration of *Six* Months from the Date of Sequestration, and at the Place appointed, the Trustee shall pay to the Creditors the Dividends allotted to them respectively in Terms of the said Scheme; and he shall lodge the Dividends apportioned to those Claims which are under Appeal, but not finally determined, and the Dividends effeiring to contingent Creditors or other Claimants, not then entitled to uplift the same, in the Bank appointed by the Creditors, or failing such Appointment, in one of the said Banks in a separate Account, or if the Money be deposited in Bank, he shall transfer it to a separate Account in Name of himself and the Commissioners, to remain therein until the said Appeals be disposed of or the Dividends are payable.

Second Dividend.

Trustee to make up State, &c., and Commissioners to resolve as in case of First Dividend.

CXXVII. On the Expiration of *Eight* Months from the Date of Sequestration, the Trustee shall again make up a State as herein-before provided, which he shall within *Fourteen* Days after the Expiration of the said *Eight* Months exhibit to the Commissioners, who shall meet and adjust the State, and perform the other Acts and Duties incumbent on them, in manner before specified, and direct a Second Dividend to be paid, if there shall be Funds to pay the same; and if the Commissioners shall direct a Dividend to be paid, the Trustee shall also make up Lists of the Creditors who are entitled and who are not entitled to Payment of the Dividend, and frame a Scheme of Division, and notify in the Gazette and by Letters, and any Creditor may appeal, all as is herein-before provided for the First Dividend: Provided always, that no Appeal by a Creditor shall be competent unless the Note of Appeal be lodged within *Ten* Days of the Date of Notification in the Gazette.

Dividend to be paid.

CXXVIII. On the First lawful Day after the Expiration of *Nine* Months from the Date of Sequestration, the Trustee shall make Payment of the Second Dividend to those Creditors who are entitled thereto, and shall lodge the Dividends disputed or not then payable, all as herein-before provided for the First Dividend.

Subsequent Dividends.

Same Proceedings as in prior Dividends.

CXXIX. The like Procedure shall be followed out as to subsequent Dividends at similar Intervals of Time thereafter, in order that a Dividend may be made on the First lawful Day after the Expiration of every *Three* Months from the Day of Payment of the immediately preceding Dividend, until the whole Funds of the Bankrupt shall be divided.

Dividends may be accelerated in certain Cases.

CXXX. Provided always, that after the Second Dividend is made, a Majority of the Creditors, at any General Meeting called for the Purpose, may determine that future Dividends shall be made at shorter Intervals, and the Affairs of the Estate brought to a more

speedy Close; and even before the Period assigned for the First Dividend as aforesaid, it shall be competent to *Three Fourths* in Number and Value of the Creditors present at the Meeting after the Bankrupt's Examination, or at any after Meeting called for the Purpose, to direct the Trustee to apply to the Lord Ordinary or the Sheriff for Authority to make the First Dividend at an earlier Period than the Expiration of *Six* Months from the Date of the Sequestration, but not earlier than *Four* Months from such Date, if upon Cause shown it shall be found expedient so to do, and also to accelerate the Time for making the second and other Dividends; and when the Lord Ordinary or the Sheriff shall, upon such Application, accelerate the first or any subsequent Dividend, he shall also make the requisite Provision for the Acceleration of any other Matters which he may find it necessary to accelerate in consequence thereof.

Proceedings when Commissioners postpone the Dividend.

CXXXI. If it shall appear to the Commissioners that a Dividend ought to be postponed, they may do so till the Recurrence of another stated Period for making a Dividend, and they shall authorize the Trustee to give a Notice to that Effect in the next Edinburgh Gazette: Provided that notwithstanding such Postponement the State of the Funds shall be made up, and the Accounts of the Trustee audited, at the Time and in the Manner before directed, and Circulars containing a Copy or Abstract of the said State shall be sent by Post to the Creditors, unless the Commissioners shall otherwise direct; and the Trustee shall examine the Oaths and Grounds of Debt, and dispose of them, and make up a Scheme of Division; and it shall be competent for any of the Creditors who is dissatisfied with his Judgment to lodge a Note of Appeal against it, before the Expiration of *Thirty* Days from the Date of Publication in the Gazette of the Payment of a Dividend in the Case of the Period for a First Dividend, or *Ten* Days in the Case of subsequent Dividends, as already provided.

Where Estate is chiefly Land Periods of Payment may be altered.

CXXXII. In Cases where the Estate sequestrated consists chiefly of Land, and in any other Cases where it may be necessary, it shall be competent for the Court of Session, on a special Application by the Trustee and Commissioners, sanctioned by a Report from the Accountant in Bankruptcy, to authorize such Alteration in the Periods above mentioned for Payment of Dividends as shall be found most suitable to the peculiar Circumstances of the Case.

Winding up of Estate.

CXXXIII. If on the Lapse of *Twelve* Months from the Date of Sequestration it shall appear to the Trustee and Commissioners expedient to sell the Heritable or Moveable Estates not disposed of, and any Interest which the Creditors have in the outstanding Debts and consigned Dividends, they shall fix a Day for holding a Meeting of

of the Creditors to take the same into consideration; and the Trustee, besides advertising the same in the Gazette, shall, *Fourteen* Days before the Day appointed, send by Post to each Creditor claiming on the Estate a Notice of the Time and Place of the Meeting, with a Valuation of the Estate and Effects and a List of the outstanding Debts and of the consigned Dividends; and if *Three Fourths* of the Creditors at the Meeting shall decide in favour of a Sale, in whole or in Lots, the Trustee shall cause the same to be sold by Auction, after Notice thereof published at least once in the Gazette *One* Month previous to the Sale, and in such other Newspapers as the Creditors at the Meeting shall appoint.

Discharge of Bankrupt.

1st On Composition.

Offer of Composition may be made at the Meeting for Election of Trustee.

CXXXIV. At the Meeting for Election of Trustee the Bankrupt or his Friends, or, in case of his Decease, his Successors, and in case of a Company, One or more of the Partners thereof, may offer a Composition to the Creditors on the whole Debts, with Security for Payment of the same; and if the Majority of the Creditors in Number and *Nine Tenths* in Value present at such Meeting shall resolve that the Offer and Security shall be entertained for Consideration, the Trustee shall forthwith advertise in the Gazette a Notice that an Offer of Composition has been so made and entertained, and that it will be decided upon at the Meeting to be held after the Examination of the Bankrupt, and shall specify the Hour, Day, and Place, and also transmit by Post Letters to each of the Creditors claiming on the Estate, or mentioned in the Bankrupt's State of Affairs, containing a Notice of such Resolution, and of the Day and Hour at which, and the Place where, the said Meeting is to be held, and specifying the Offer and Security proposed, and giving an Abstract of the State of the Affairs and of the Valuation of the Estate, so far as the same can be done, to enable the Creditors to judge of the said Offer and Security.

Offer, if entertained, to be disposed of at the Meeting after the Bankrupt's Examination.

CXXXV. If at the Meeting held after the Examination of the Bankrupt a Majority in Number and *Nine Tenths* in Value of the Creditors there assembled shall accept the said Offer and Security, a Bond of Caution for Payment of the Composition, executed by the Bankrupt or his Successors (as the Case may be), and the proposed Cautioner, shall be forthwith lodged in the Hands of the Trustee; and the Trustee shall thereupon subscribe and transmit a Report of the Resolution of the Meeting, with the said Bond, to the Bill Chamber Clerk or Sheriff Clerk, in order that the Approval of the Lord Ordinary or Sheriff (whichever may be selected by the Trustee) may be obtained thereto; and if the Lord Ordinary or the Sheriff,

Lord Ordinary or Sheriff to approve.

after hearing any Objections by Creditors, shall find that the Offer, with the Security, has been duly made, and is reasonable, and has been assented to by a Majority in Number and *Nine Tenths* in Value of all the Creditors assembled at the said Meeting, he shall pronounce a Deliverance approving thereof: Provided that he shall hear any Objection by opposing Creditors; and if he shall refuse to sustain the Offer or reject the Vote of any Creditor, he shall specify the Grounds of Refusal or Rejection.

Offer of Composition may also be made at Meeting after Bankrupt's Examination.

CXXXVI. In like Manner, at the Meeting held after the Examination of the Bankrupt, or at any subsequent Meeting called for the Purpose by the Trustee, with the Consent of the Commissioners, the Bankrupt, or his Friends, or in case of his Decease his Successors, and in the Case of a Company One or more of the Partners thereof, may offer a Composition to the Creditors on the whole Debts, with Security for Payment of the same; and if a Majority in Number and *Four Fifths* in Value of the Creditors present shall resolve that the Offer and Security shall be entertained for Consideration, the Trustee shall call another Meeting to be held at a specified Hour on a specified Day, being not less than *Twenty-one* Days thereafter, and at a specified Place, and shall, *Seven* Days at least before such other Meeting, send by Post Letters addressed to each of the Creditors who have claimed on the Estate or are mentioned in the Bankrupt's State of Affairs, which Letter shall contain a Notice of such Resolution, and of the Hour, Day, and Place, and Purpose of the Meeting, and specify the Offer and Security proposed, and give an Abstract of the State of the Affairs and Valuation of the Estate, so far as can be done, to enable the Creditors to judge of the said Offer; and if at the Meeting so called a Majority in Number and *Four Fifths* in Value of the Creditors present shall accept the said Offer and Security, a Bond of Caution shall be lodged and a Report made, and a Deliverance pronounced, all in the same Manner and to the same Effect as is herein-before provided.

Bankrupt on making Declaration or Oath to obtain his Discharge.

CXXXVII. On such Deliverance being pronounced, approving of the Composition in either of the Cases above specified, the Bankrupt shall make a Declaration, or if required by the Trustee or any Creditor, an Oath, before the Lord Ordinary or the Sheriff (as the Case may be), that he has made a full and fair Surrender of his Estate, and has not granted or promised any Preference or Security, or made or promised any Payment, or entered into any secret or collusive Agreement or Transaction, to obtain the Concurrence of any Creditor to the said Offer and Security; and if the Bankrupt shall be at the Time beyond the Jurisdiction of the Lord Ordinary or Sheriff, or is by a lawful Cause prevented from appearing before the

the Lord Ordinary or Sheriff, Commission may be granted to any fit Person to take such Declaration or Oath; and the Lord Ordinary or the Sheriff (as the Case may be), on being satisfied with the said Oath or Declaration, shall pronounce a Deliverance discharging the Bankrupt of all Debts and Obligations contracted by him, or for which he was liable at the Date of the Sequestration, and shall declare the Sequestration to be at an End, and the Bankrupt re-invested in his Estate (reserving always the Claims of the Creditors for the said Composition against him and the Cautioner); and the Bond of Caution shall be recorded in the Books of the Court of Session, or, when the said Deliverance is pronounced by the Sheriff, in the Books of the Sheriff Court; and an Extract of the said Deliverance, signed by the Sheriff Clerk, shall forthwith be transmitted to the Accountant in Bankruptcy, who shall preserve the same, with the Copy of the Proceedings of the Sequestration transmitted to him, as already provided; and the said Deliverance of the Lord Ordinary or of the Sheriff shall operate as a complete Discharge and Acquittance to the Bankrupt in Terms thereof, and shall receive Effect within Great Britain and Ireland and Her Majesty's other Dominions, and an Entry thereof shall be made by the Accountant in Bankruptcy in the Register of Sequestrations.

Trustee's Accounts to be audited before the Composition be approved of.

CXXXVIII. Before the Lord Ordinary or the Sheriff shall pronounce the Deliverance approving of the Composition, the Commissioners shall audit the Accounts of the Trustee, and ascertain the Balance due to or by him, and fix the Remuneration for his Trouble, subject to the Review of the Lord Ordinary or the Sheriff, if complained of by the Trustee, the Bankrupt, or any of the Creditors; and the Expense attending the Sequestration and such Remuneration shall be paid or provided for to the Satisfaction of the Trustee and Commissioners before the said Deliverance is pronounced.

Sequestration to go on, notwithstanding Offer of Composition.

CXXXIX. Notwithstanding such Offer of Composition and Proceeding consequent thereon the Sequestration shall continue, and the Trustee shall proceed in the Execution of his Duty as if no such Offer had been made, until the said Deliverance by the Lord Ordinary or the Sheriff be pronounced, when the Sequestration shall cease and be at an End, and the Trustee be exonered and discharged: Provided nevertheless, that the Trustee and his Cautioner shall be liable, on Petition to the Lord Ordinary or Sheriff by the Bankrupt or his Cautioner for the Composition, to account for his Intromissions and other Acts as Trustee.

Bankrupt and Cautioner not to

CXL. Neither the Bankrupt nor the Cautioner for the Composition shall be entitled to object to any Debt which the Bankrupt has

be entitled to object to certain Debts.

given up in the State of his Affairs as due by him, or admitted without Question to be reckoned in the Acceptance of the said Offer of Composition, nor to object to any Security held by any Creditor, unless in the Offer of Composition such Debt or Security shall be stated as objected to, and Notice in Writing given to the Creditor in Right thereof.

Claims against Cautioner limited in certain Cases to Two Years.

CXLI. No Person who has not produced an Oath as a Creditor before the Date of the said Deliverance, approving of the Composition, shall be entitled to make any Demand against the Cautioner after the Space of *Two* Years from the Date of such Deliverance, reserving to such Creditor his Claim for the Composition against the Bankrupt and his Estate.

If Offer of Composition rejected, no other to be entertained, unless Nine Tenths of Creditors ranked shall agree.

CXLII. If an Offer of Composition have been made and rejected, or have become ineffectual, no other Offer of Composition shall be entertained unless *Nine Tenths* in Number and Value of all the Creditors ranked on the Estate shall assent in Writing to such Offer, which Offer shall state the Amount of Composition and the Terms of Payment, and be subscribed by the Cautioner proposed, in which Case a Meeting shall be called in manner before directed by the Trustee for finally disposing of the same; and if at the Meeting so called a Majority in Number and *Nine Tenths* in Value of the Creditors present shall accept the said Offer and Security, and the same shall be assented to by *Nine Tenths* in Value of all the Creditors who have produced Oaths as aforesaid, a Bond of Caution shall be lodged and a Report made, and Deliverances pronounced, and the other Proceedings shall take place and have effect in the same Manner as is herein-before provided for other Offers of Composition.

2d. Without Composition.

Proceedings for this Purpose.

May be discharged with Consent of Creditors.

CXLIII. The Bankrupt may at any Time after the Meeting held after his Examination petition the Lord Ordinary or the Sheriff to be finally discharged of all Debts contracted by him before the Date of the Sequestration, provided that every Creditor who has produced his Oath as aforesaid shall concur in the Petition; and the Bankrupt may also present such Petition on the Expiration of *Six* Months from the Date of the Sequestration, provided a Majority in Number and *Four Fifths* in Value of the Creditors who have produced Oaths concur in the Petition, and the Bankrupt may also present such Petition on the Expiration of *Twelve* Months from the Date of the Sequestration, provided a Majority in Number and *Two Thirds* in Value of said Creditors concur in the Petition; and the Bankrupt may also present such Petition on the Expiration of *Eighteen* Months from the Date of the Sequestration, provided a Majority in Number and

and Value concur in the Petition; and the Bankrupt may also present such Petition on the Expiration of *Two* Years from the Date of the Sequestration without any Consents of Creditors; and the Lord Ordinary or the Sheriff, as the Case may be, shall in each of the Cases aforesaid, order the Petition to be intimated in the Gazette; and if, at the Distance of not less than *Twenty-one* Days from the Publication of such Intimation, and on Evidence being produced of Concurrence as aforesaid, there be no Appearance to oppose the same, the Lord Ordinary, or the Sheriff, as the Case may be, shall pronounce a Deliverance finding the Bankrupt entitled to a Discharge; but if Appearance be made by any of the Creditors or by the Trustee, the Lord Ordinary or the Sheriff, as the Case may be, shall judge of any Objections against granting the Discharge, and shall either find the Bankrupt entitled to his Discharge, or refuse the Discharge, or defer the Consideration of the same for such Period as he may think proper, and may annex such Conditions thereto as the Justice of the Case may require: Provided always, that it shall not be competent for the Bankrupt to present a Petition for his Discharge, or to obtain any Consent of any Creditor to such Discharge, until the Trustee shall have prepared a Report with regard to the Conduct of the Bankrupt, and as to how far he has complied with the Provisions of this Statute, and, in particular, whether the Bankrupt has made a fair Discovery and Surrender of his Estate, and whether he has attended the Diets of Examination, and whether he has been guilty of any Collusion, and whether his Bankruptcy has arisen from innocent Misfortunes or Losses in Business, or from culpable or undue Conduct, and such Report shall be prepared by the Trustee, upon the Requisition of the Bankrupt, at any Time after the Expiration of *Five* Months from the Date of the Sequestration, and such Report shall be produced in the Proceedings for the Bankrupt's Discharge, and shall be referred to by its Date, or by other direct Reference, in any Consent to his Discharge.

After Two Years may be discharged without Consent.

CXLIV. If the Bankrupt shall be found entitled to his Discharge he shall make a Declaration, or if required by the Trustee or any Creditor, an Oath, before the Lord Ordinary or Sheriff, that he has made a full and fair Surrender of his Estate, and has not granted or promised any Preference or Security, nor made or promised any Payment, nor entered into any secret or collusive Agreement or Transaction, to obtain the Concurrence of any Creditor to his Discharge; and if the Bankrupt shall be at the Time beyond the Jurisdiction of the Lord Ordinary or Sheriff, or is by lawful Cause prevented from coming before the Lord Ordinary or Sheriff, Commission may be granted to any fit Person to take such Declaration or Oath; and the Lord Ordinary or the Sheriff, as the Case may be, on

Bankrupt to make a Declaration or Oath before obtaining Discharge.

being satisfied with the said Oath or Declaration, shall pronounce a Deliverance discharging the Bankrupt of all Debts and Obligations contracted by him or for which he was liable at the Date of the Sequestration; and when the said Deliverance discharging the Bankrupt is pronounced by the Sheriff, an Extract thereof signed by the Sheriff Clerk shall forthwith be transmitted to the Accountant in Bankruptcy, who shall preserve the same with the Copy Proceedings in the Sequestration transmitted to them; and the said Deliverance by the Lord Ordinary, or the said Deliverance by the Sheriff, shall operate as a complete Discharge and Acquittance to the Bankrupt in Terms thereof, and shall receive effect within Great Britain and Ireland and all Her Majesty's other Dominions; and an Entry thereof shall be made by the Accountant in Bankruptcy in the Register of Sequestrations.

Preferences and Collusions for procuring Discharge to be void.

Preferences, Payments, and collusive Agreements for Discharge to be void.

CXLV. All Preferences, Gratuities, Securities, Payments, or other Consideration not sanctioned by this Act, granted, made, or promised, and all secret or collusive Agreements and Transactions, for concurring in, facilitating, or obtaining the Bankrupt's Discharge, either on or without an Offer of Composition, and whether the Offer be accepted or not, or the Discharge granted or not, shall be null and void; and if during the Sequestration any Creditor shall have obtained any such Preference, Gratuity, Security, Payment, or other Consideration or Promise thereof, or entered into such secret or collusive Consideration or Agreement or Transaction, the Trustee shall be entitled to retain his Dividend, and he or any Creditor ranked on the Estate may present a Petition to the Lord Ordinary or to the Sheriff, praying that such Creditor shall be found to have forfeited his Debt, and be ordained to pay to the Trustee *double* the Amount of the Preference, Gratuity, Security, Payment, or other Consideration given, made, or promised, and if no Cause be shown to the contrary, Decree shall be pronounced accordingly; and the Sums which in such Case may be recovered shall, under Deduction of the Expenses of recovering the same, be distributed by the Trustee among the other Creditors under the Sequestration; and if the Sequestration shall have been closed, it shall be competent to any Creditor who shall not have received full Payment of his Debt to raise a Multiplepoinding in Name of the Person who has obtained such Preference, Gratuity, Security, Payment, or other Consideration or Promise as aforesaid, and on the Value of the Preference, Gratuity, or Security, or Amount of the Sum paid or Consideration obtained, being ascertained, *double* such Value or Amount, together with the Amount of the Debt of the colluding Creditor, shall be ordered to be consigned by him, and shall be divided among the Creditors who were ranked or

were

were entitled to be ranked in the Sequestration, and have not received full Payment of their Debts, and who shall lodge Claims in such Multiplepoinding, according to their respective Rights and Interests: and the Multiplepoinding shall be executed in Terms of Law against the colluding Creditor, and Notice thereof at the same Time be inserted in the Gazette; and in the event that there shall be any Surplus, after paying the full Debts of the Creditors, and defraying the Expenses of the Sequestration or other Proceeding, the same shall be paid into the Account of Unclaimed Dividends, as herein-after provided.

Bankrupt to forfeit Privileges, if participant in giving such Preferences, &c.

CXLVI. If the Bankrupt shall have been personally concerned in or cognizant of the granting, giving, or promising any Preference, Gratuity, Security, Payment, or other Consideration, or in any secret or collusive Agreement or Transaction as aforesaid, he shall forfeit all Right to a Discharge and all Benefits under this Act, and such Discharge, if granted, either on or without an Offer of Composition, shall be annulled; and the Trustee or any One or more of the Creditors may apply by Petition to the Lord Ordinary to have such Discharge annulled accordingly.

Trustee's Discharge.

Proceedings for this Purpose.

CXLVII. After a final Division of the Funds, the Trustee shall call a Meeting of the Creditors, by an Advertisement in the Gazette, to be held not sooner than *Twenty-one* Days after such Publication, specifying the Time, Place, and Purpose of holding the Meeting, and by Letters addressed by Post to every Creditor who has produced an Oath as aforesaid, to consider as to an Application for his Discharge, and at such Meeting he shall lay before the Creditors the Sederunt Book and Accounts, with a List of unclaimed Dividends, and the Creditors may then declare their Opinion of his Conduct as Trustee, and he may thereafter apply to the Lord Ordinary or the Sheriff, who, on advising the Petition, with the Minutes of the Meeting, and hearing any Creditor, may pronounce or refuse Decree of Exoneration and Discharge; and when the said Decree is pronounced by the Sheriff, an Extract thereof, signed by the Sheriff Clerk, shall forthwith be transmitted to the Accountant in Bankruptcy, and shall be entered in the Register of Sequestrations, and the Bond of Caution for the Trustee delivered up.

Trustees to lodge unclaimed Dividends, &c. in Bank.

CXLVIII. Every Trustee in any Sequestration awarded under this Act shall, before his Discharge, transmit the Sederunt Book to the Accountant in Bankruptcy, who shall thereupon intimate to the Trustee the Bank in which the unclaimed Dividends are to be deposited, and he shall name the Banks in the following Rotation; videlicet, the

Bank of Scotland, the Royal Bank of Scotland, the Bank of the British Linen Company of Scotland, the Commercial Bank of Scotland, and the National Bank of Scotland; and the Trustee shall forthwith transfer the whole Dividends not then claimed to the Bank so intimated, to be there entered in an Account to be kept under the Title of "Account of unclaimed Dividends;" and a Book or Books shall be kept in the Office of the Accountant in Bankruptcy, to be entitled "Register of unclaimed Dividends," showing such Rotation, and containing a List, with the Names arranged alphabetically, of all the Creditors entitled to such unclaimed Dividends, and in what Bank deposited, which shall be patent to all Persons; and after the Discharge of the Trustee it shall be competent for any Person, producing Evidence of his Right, to apply to the Lord Ordinary for Authority to receive such Dividends, and on the Lord Ordinary being satisfied of the Claimant's Right, a Warrant shall be granted for Payment of such Dividend, whereof the Accountant in Bankruptcy shall make an Entry in the said Register, and upon such Warrant the Bank shall pay the same: Provided that the Claimant shall not be entitled to Interest on such Dividend, but such Interest shall go into a general Fund, of which an Account shall be kept by such Bank, to be called "The Interest Account of unclaimed Dividends," and which Fund shall be applied in such Manner as shall be regulated by any Act of Parliament; and if at the End of *Twenty-five* Years from the Date of closing any Sequestration there shall remain in the Bank any unclaimed Dividends belonging to the Estate, the same shall be vested in Government Stock, and the Dividends thereon shall be regularly accumulated for the Purpose of forming a Fund for defraying the Expense of Proceedings in Bankruptcy or otherwise, as Parliament shall hereafter direct; and the said Banks shall once yearly at least balance the said Accounts, and accumulate the Interest with the Principal Sum, so that both shall thereafter bear Interest as Principal; and if any such Bank fail to do so, such Bank shall be liable to account as if such Money had been so accumulated.

Claimants showing Right to apply to Lord Ordinary for Authority to receive Dividends.

Interest Account of unclaimed Dividends.

Law Accounts to be taxed.

CXLIX. All Accounts for Law Business incurred by the Trustee shall before Payment thereof by the Trustee be submitted for Taxation to the Auditor of the Court of Session, or to the Auditor of the Sheriff Court of the County in which the Sequestration was carried on, as may be directed by a General Meeting of the Creditors.

Surplus to be paid to Bankrupt.

CL. Any Surplus of the Bankrupt's Estate and Effects that may remain after Payment of his Debts, with Interest, and the Charges of recovering and distributing the Estate, shall be paid to the Bankrupt, or to his Successors or Assignees.

Accountant

Accountant in Bankruptcy.

Appointment of Accountant in Bankruptcy.

CLI. It shall be lawful for Her Majesty, and Her Heirs and Successors, to appoint a Person versant in Law and Accounts, to be called "The Accountant in Bankruptcy," for performing the Duties of that Office, with such yearly Salary, not exceeding per Annum, payable quarterly out of , and with such Accommodation of Office Rooms, or reasonable Allowance for the same out of the said Fund, as may be fixed by the Commissioners of Her Majesty's Treasury, and the Accountant shall be allowed Clerks; whom he shall appoint, with a Salary not exceeding yearly, which Salaries shall be paid quarterly out of ; and the Accountant shall hold no other official Situation in the Court, and shall not, directly or indirectly, by himself or any Partner, be engaged in Practice, and he shall not, directly or indirectly, have any Management of or Intromission with any Money of any Bankrupt Estate under Charge of the Court of Session or of any Sheriff Court, or constituting the Fund in any Process of Sequestration.

To keep Register of Sequestrations.

CLII. The Accountant in Bankruptcy shall keep a Book, entitled "The Register of Sequestrations," in the Form of Schedule (G.) hereunto annexed, which Book shall be patent to all concerned, and he shall regularly enter therein the Division of the Court to which any Sequestration awarded in the Court of Session is appropriated, the Date of the First Deliverance on every Petition of Sequestration, whether in the Court of Session or Sheriff's Court, the Name and Designation of the Debtor, the Place and County of his Residence, Dwelling House, or Place of Business, and the Name and Designation of the Petitioning or Concurring Creditor, the Date of awarding or recalling Sequestration, the Date of Transmission to the Sheriff (if it has been awarded in the Court of Session), the Time and Place appointed for the Election of the Trustee and Commissioners, the Name and Designation of the Trustee and Commissioners, and the Time for lodging Claims in order to obtain Payment of the First Dividend, for which Purpose Clerks of the Bill Chamber and the Sheriff Clerk of each County shall transmit forthwith to the said Accountant in Bankruptcy a certified Copy of the First Deliverance in Sequestrations awarded in the Court of Session and Sheriff Courts respectively, and the Sheriff Clerk of each County shall at the End of every Period of *Three* Months transmit to him regularly a certified Copy of the Proceedings in each Sequestration during the said Period.

Trustee to make an Annual Re-

CLIII. Each Trustee shall, on the *Thirty-first Day of October*, if a lawful Day, or on the first lawful Day thereafter, yearly deliver,

turn to Sheriff Clerk, and the Sheriff Clerk to the Accountant in Bankruptcy.

free of Expense, to the Sheriff Clerk of the County, a Return in the Form of the Schedule marked (H.) hereunto annexed, of every Sequestration in which he is Trustee; and the Sheriff Clerk shall, within *Fourteen* Days thereafter, transmit, in the Form of the said Schedule, to the Accountant in Bankruptcy, a Return of all the Sequestrations depending in the Sheriffdom whereof he is Clerk; and the Accountant in Bankruptcy shall cause the Returns so made to be regularly bound up and preserved, according to the alphabetical Order of Counties, in a Volume to be kept at all Times in his Office, with an Index thereto, framed by him, and which Volume shall be patent to all concerned; and any Trustee who shall fail to make such Return shall be removable from his Office at the Instance of any One Creditor, or of the Accountant in Bankruptcy, or subject to such Censure as the Lord Ordinary may think suitable, and be found liable in Expenses.

Accountant in Bankruptcy to superintend Trustee and Commissioners:

CLIV. The said Accountant shall superintend generally the Conduct of all Trustees and Commissioners in Sequestrations, and in the event of their not faithfully performing their Duties, and duly observing all Rules and Regulations imposed on them by Statute, Act of Sederunt, or otherwise relative to the Performance of those Duties, he shall report thereon to the Lord Ordinary in Time of Vacation, or during Time of Session to either Division of the Court of Session, who, after hearing such Trustees or Commissioners thereon, and investigating the whole Matter, shall decide, and shall have Power to censure such Trustees or Commissioners, or remove them from their Office, or otherwise to deal with them as the Justice of the Case may require.

And Returns.

CLV. The said Accountant shall superintend the annual Returns required by this Act from Trustees, and frame an annual Report to the Court of Session showing the State of each depending Sequestration, which Report may be published in the Gazette or otherwise as the Court shall direct; and the said Accountant shall have Power, on the Application of One or more of the Creditors, or of his own Accord, to require Exhibition of the Sederunt Book in any Sequestration, and of any Vouchers or Documents which he may think necessary, and to direct that a Meeting of the Creditors shall be called to take any Measures under Consideration which he may judge requisite for the Preservation or due Management of the Estate or more speedy realizing and Division of the Funds or winding up of the Estate.

Annual State to be

CLVI. In every Sequestration there shall be prepared annually by the Trustee, and authenticated by the said Accountant, a short Statement

Statement of the Proceedings in the Sequestration during the preceding Year, setting forth whether there has been a Dividend, and if there has been none explaining the Reason; which Statement shall be inserted annually in the Gazette; and such Statement, and the said Publication thereof, shall not be dispensed with unless by Leave of either Division of the Court, or of the Lord Ordinary in Time of Vacation, given on Application by a short Note, and on Cause shown. authenticated by him.

CLVII. The Accountant shall at all Times, when requisite, report to the Lord Ordinary or the Court any Disobedience by the said Trustee or Commissioners of any Requisition or Order by him, and generally any Matter which he may deem it necessary for the due Discharge of his Office to bring before the Lord Ordinary or the Court, and it shall be competent for the Lord Ordinary or the Court to deal summarily with the Matter reported, as accords of Law. To report Disobedience.

CLVIII. If the Accountant shall possess Information that shall lead him, on reasonable Grounds, to suspect Malversation or Misconduct on the Part of the said Factor or Trustee, such as may infer Punishment, he shall be entitled to give Information to Her Majesty's Advocate, who shall direct such Inquiry, and take such Proceedings therein, as he shall think proper. To give Information to Lord Advocate.

Judicial Power for winding up the Estates of Parties deceased.

CLIX. It shall be competent for One or more Creditors of Parties deceased to the Amount of *One hundred* Pounds, or for Persons having an Interest in the Succession of such Parties, to apply by summary Petition to either Division of the Court of Session, in the event of the Deceased having left no Trust Settlement, for the Appointment of a Judicial Factor, whom the Court, after due Intimation of the Petition to all Creditors of the Deceased, and other Persons interested in his Estate, and after hearing Parties, may appoint, and such Factor shall manage the Estate, recover Debts due to it, realize the moveable Effects by Public or Private Sale, as may be most expedient, dispose of the Heritable Estate by Public Sale or Private Bargain, according to such Directions as the Court, on report of the Accountant in Bankruptcy, may give, and shall apply the free Proceeds, after defraying all Expenses in Payment of the Claims of Creditors according to their several Rights and Preferences, conformably to a State of Funds and Scheme of Division to be prepared by him and considered and approved of by the Court, on a Report by the Accountant in Bankruptcy, and thereafter the Factor shall account for the Residue, if any, after Payment of Debts and Expenses, to the Parties having a Right to the Deceased's Succession, it being provided Application for Judicial Factor on Estates of Persons deceased.

provided that the said Accountant in Bankruptcy shall regularly examine the Proceedings, Intromissions, and Accounts of such Factor, and report to the Court thereon, from Time to Time, as he may deem expedient, and shall generally exercise the like Powers and discharge the same Duties with regard to him as he is empowered and required to exercise and discharge with regard to a Trustee under a Sequestration, but subject always to the Control of the Court.

Application of Trustees on Estate of deceased Parties for Supervision of Accountant in Bankruptcy.

CLX. If a Party deceased has left a Settlement, it shall nevertheless be competent for the Trustees under the Settlement, with Concurrence of the Creditors of the Deceased and of the Persons interested in his Succession, to apply in like Manner to the Court, and obtain from them an Order on the Accountant in Bankruptcy to superintend the Administration of the Estate, in which Case he shall exercise the like Powers and discharge the like Duties, under the Control of the Court, which have been provided for in the preceding Section.

Process of Cessio Bonorum.

Cessio Bonorum.

CLXI. Any Trustee or Trustees to whom the Pursuer of a Cessio shall grant a Conveyance of his Estate and Effects for Behoof of his Creditors, shall act under the Supervision and Control of the Accountant in Bankruptcy in like Manner as the Trustee under a Sequestration, and the said Accountant shall exercise the like Powers and perform the like Duties as in that Case, but always under the Directions of the Court, for which Purpose it shall be the Duty of every such Trustee, or, failing him, of the Clerk to any such Process in the Court of Session, or of the Clerk of the Sheriff Court in which the Cessio has been granted, to transmit a Note of the same, and Residence of such Trustee, to the Accountant in Bankruptcy, and the Accountant shall prepare a List thereof and shall require from such Trustees, at the End of each Period of *Three* Months, Accounts of their Intromissions, and report on the same to either Division of the Court, and he shall also bring before the Court any Instance of Malversation or Irregularity in said Trustees, whereupon the Court shall be entitled to inflict on them such Censure or Punishment as they may deem just.

Judicial Proceedings.

Appeals, &c. against Resolutions of Creditors and Deliverances of Trustee to the Lord Ordinary or Sheriff.

CLXII. It shall be competent to appeal against the Resolutions of the Creditors at Meetings either to the Lord Ordinary or the Sheriff, provided a Note of Appeal shall be lodged with and marked by One of the Clerks of the Bill Chamber within *Fourteen* Days after the Date of the Meeting at which the Resolution objected to has been passed, or (as the Case may be) in the Hands of and marked by the Sheriff

Sheriff Clerk within the like Period; and it shall in like Manner be competent to appeal against any Deliverance of the Trustee to the Lord Ordinary or the Sheriff, provided the Note of Appeal shall be lodged and marked as aforesaid within *Thirty* Days from the Date of the said Deliverance (except in the Case of Dividends as hereinbefore specified); and where any such Appeal is made, or where any Petition or Complaint is presented against the Trustee or Commissioners, or against any of the Creditors, the Lord Ordinary or the Sheriff (as the Case may be) shall appoint a Copy thereof, and of his Deliverance thereon, to be served on the Respondent, or his Mandatory or known Agent, and appoint the Respondent to appear at a specified Diet within such Period as may be reasonable; and the Lord Ordinary or the Sheriff (as the Case may be) shall at such Diet hear Parties vivâ voce, and the Lord Ordinary shall proceed to dispose of the Case, with or without a Record, as he shall consider best; and the Sheriff, without a Record, may decide, provided he shall specify the Facts, and assign the Grounds of his Judgment; but if he shall see Cause he may order Minutes to be lodged by the Parties, containing their Averments in Fact and Pleas in Law, without Argument, and may hold the same as a closed Record, and proceed in a summary Way, and in pronouncing his Judgment he shall assign his Reasons; and it shall be competent to the Lord Ordinary or the Sheriff, where any Resolution of a Meeting of the Creditors is appealed against, to order a new Meeting to be held, in order to reconsider the Resolution.

Review of Sheriff's Judgments.

CLXIII. It shall be competent to bring under the Review of the Inner House of the Court of Session, or before the Lord Ordinary in Time of Vacation, any Deliverance of the Sheriff, after the Sequestration has been awarded (except where the same is declared not to be subject to Review), provided a Note of Appeal be lodged with and marked by the Sheriff Clerk, within *Eight* Days from the Date of such Deliverance, failing which the same shall be final; and such Note, together with the Process, shall forthwith be transmitted by the Sheriff Clerk to the Clerk of the Bill Chamber, and the Lord Ordinary's Decision shall, when not expressly made final by this Act, be subject to Review of the Inner House; and it shall be competent for the Inner House or the Lord Ordinary to remit to the Sheriff, with Instructions.

Review of Lord Ordinary's Judgments.

CLXIV. Where any Judgment of the Lord Ordinary is to be brought under Review of the Inner House, the same shall be done by a Reclaiming Note in common Form; and such Reclaiming Note shall be disposed of by the Inner House as speedily as the Forms of Court will allow.

Regulation by Sheriff of Interim Possession.

CLXV. During the Dependence of Appeals or Petitions and Complaints it shall be competent to the Sheriff to give such Orders as may be necessary to regulate the Interim Possession and Administration of the Estate.

Appeals to House of Lords.

CLXVI. If any Appeal shall be made to the House of Lords, the Sequestration shall, in all respects not inconsistent with or injurious to the Interests which may be affected by the Appeal, proceed without Interruption, and the Lord Ordinary shall make such Orders as may be necessary to regulate the Interim Possession and Management of the Estate, and which Orders shall not be subject to Appeal.

Deliverances, Extracts, and Copies shall form Evidence.

CLXVII. All Deliverances under this Act purporting to be signed by the Lord Ordinary or by any of the Judges of the Court of Session, as well as all Extracts or Copies thereof or from the Books of Court purporting to be signed or certified by any Clerk of Court, or Extracts from or Copies of Registers purporting to be made by the Keeper thereof, or Extractor, shall be judicially noticed by all Courts and Judges in England, Ireland, and Her Majesty's other Dominions, and shall be received as primâ facie Evidence, without the Necessity of proving their Authenticity or Correctness, or the Signatures appended, or the official Character of the Persons signing, and shall be sufficient Warrants for all Diligence and Execution by Law competent.

Deliverances, &c. may be printed.

Service of Citations.

CLXVIII. All Deliverances, Bonds, Schedules, and Executions under this Act may be either printed or in Writing, or partly both; and Service or Citation may be by a competent Officer without Witnesses.

Trustee and Commissioners may compound and transact.

CLXIX. The Trustee may, with Consent of the Commissioners compound and transact or refer to Arbitration any Questions which may arise in the course of the Sequestration regarding the Estate, or any Demand or Claim made thereon, and the Compromise, Transaction, or Decree Arbitral shall be binding on the Creditors and the Bankrupt.

Agents in Court of Session may be Agents in Causes under this Act before Sheriff.

CLXX. It shall be lawful for all Agents duly qualified to practise before the Court of Session to practise in all Sheriff Courts, in so far as relates to any of the Proceedings authorized by this Act to be carried on before the Sheriff: Provided that they shall not be entitled to Payment of any higher Fees than those legally exigible in such Courts.

Miscellaneous Provisions.

Punishment of wilful Falsehood.

CLXXI. If any Person shall be guilty of wilful Falsehood in any Oath made in pursuance of this Act, he shall be liable to a Prosecution, either at the Instance of Her Majesty's Advocate, or

or at the Instance of the Trustee, with the Concurrence of Her Majesty's Advocate: Provided that, in the latter Case, the Prosecution shall be authorized by a Majority of the Creditors present at a Meeting to be called for the Purpose; and such Person shall, on Conviction, besides the awarded Punishment, forfeit to the Trustee, for Behoof of the Creditors, his whole Right, Claim, and Interest in or upon the Sequestrated Estate, and the same shall be distributed, either under the Sequestration, or, if it be closed, under a Process of Multiplepoinding, as is herein-before provided.

Trustee may be authorized to receive and open Post Letters.

CLXXII. The Lord Ordinary or Sheriff, on Cause shown, may order, that for a Period not exceeding *Three* Months from the Date of the Order all Letters addressed to the Bankrupt shall be delivered by the Postmaster General, or the Officers acting under him, to the Interim Factor or Trustee, to be opened in Presence of the Sheriff, after written Notice to the Bankrupt to attend, if within Scotland; and in case the Letters shall relate in whole or in part to the Estate, they shall be placed in such Custody as the Sheriff may direct; and the Lord Ordinary may, on Cause shown, renew such Order for a like Period as often as shall be necessary.

Fees payable.

CLXXIII. The Fees which are set forth in the Schedule marked (I.) hereunto annexed shall be payable on the Proceedings specified, and shall form a Fund, which shall be applied in the Payment of the Salaries and Expenses of Officers in the Court in which the same are payable, and any Surplus which shall at any Time arise shall be paid as the Commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland shall direct.

Fees payable to the Bill Chamber Clerks.

CLXXIV. The Bill Chamber Clerks are hereby prohibited from charging or receiving any Fees, except for Copies of Interlocutors or other Papers ordered or required, for which an Allowance shall be paid at the Rate of *Sixpence* for each Page of One hundred and fifty Words, without any farther Charge for Stationery.

Gazette Keeper to furnish Copies of Gazette.

CLXXV. From and after the Commencement of this Act, the Keeper of the Gazette shall on each Day of Publication furnish a Copy thereof to the Keeper of Edictal Citations and to the Bill Chamber Clerks, and to the Accountant in Bankruptcy, who shall keep the same regularly filed, and make the said Gazettes on all Occasions patent to the Lieges at Office Hours, on Payment of a Fee of *Sixpence* and no more.

Charges on Advertisements under this Act.

CLXXVI. No Advertisement inserted in the London Gazette or in the Edinburgh Gazette, by virtue of this Act, or the Act passed in

in the Session of Parliament held in the Sixth and Seventh Year of the Reign of His late Majesty, intituled "An Act for regulating the "Process of Cessio Bonorum in the Court of Session, and for extending "the Jurisdiction of Sheriffs in Scotland" shall be charged by the Keepers of the said Gazettes for Publication therein at a higher Price, nor shall a higher Price be paid for such Publication than the Sums specified in the Schedule (K.) hereunto annexed.

Conveyances, Deeds, &c. relating to Estates of Bankrupts, Notices, not liable to Stamp or other Duties.

CLXXVII. From and after the Commencement of this Act, all Conveyances, Assignations, Instruments, Discharges, Writings, or Deeds relating solely to the Estate belonging to any Bankrupt against whom Sequestration has been or may be awarded, either under this or any former Act, and which Estate, after the Execution of such Conveyances, Assignations, Instruments, Discharges, Writings, or Deeds, shall be and remain the Property of such Bankrupt, for the Benefit of his Creditors, or the Trustees appointed or chosen under or by virtue of such Sequestration, and all Discharges to the said Bankrupt, and all Deeds, Assignations, Instruments, or Writings for reinvesting the said Bankrupt in the Estate, and all Powers of Attorney, Commissions, Factories, Oaths, Affidavits, Articles of Roup or Sale, Submissions, Decrees Arbitral, and all other Instruments and Writings whatsoever, relating solely to the Estate of any Bankrupt sequestrated as aforesaid, and all other Deeds or Writings forming a Part of the Proceedings ordered under such Sequestration, shall be exempt from all Stamp Duties or other Government Duty.

Acts of Sederunt may be made.

CLXXVIII. It shall be lawful for the Judges of the Court of Session, either during Session or Vacation, by an Act or Acts of Sederunt, from Time to Time to apportion the Duties to be performed by the Officers in the Bill Chamber, or in the said Court, or in the Sheriff Courts, and to regulate Procedure in relation to this Act, in so far as consistent therewith, and to establish a Table of Fees to be allowed to Agents, both in the Court of Session and Sheriff Courts, for conducting the Proceedings, and to amend or alter such Act or Acts from Time to Time; and the said Act or Acts of Sederunt shall within *One* Month after the making thereof be transmitted by the Lord President of the Court of Session to the Secretary of State for the Home Department, that the same may be laid before both Houses of Parliament.

SCHE-

SCHEDULES referred to in this Act.

SCHEDULE (A.)

No. 1.

Abbreviate for the Register of Inhibitions.

PETITION for Sequestration of *A. B.* [*Name and Designation*].
Date of First Deliverance Day of .
(Signed) *C. D.* [*If an Agent, state so.*]

No. 2.

Certificate by the Keeper.

Edinburgh [*Date*].

THIS Petition was presented by [*name and design the Presenter*] on the [*Date*], and recorded on [*Date*] in the Register of Inhibitions.
(Signed) *E. F.*, Keeper.

No. 3.

Abbreviate.

PETITION for transferring, in Terms of [*specify Title and Date of this Act*], from *A. B.* [*Name and Designation*], as Heir of *C. D.* [*Name and Designation*], the Estates of *C. D.*, [*Date of Deliverance*] Day of .
(Signed) *E. F.* [*If an Agent, state so.*]

SCHEDULE (B.)

Notice to the Gazettes.

THE Estates of *A. B.* [*Name and Designation*] were sequestrated on [*Date, Month, and Year*] by [*Court of Session or the Sheriff of*].

The First Deliverance is dated the [*Date*].

The Meeting to elect the Trustee and Commissioners is to be held at [*Hour*] o'Clock on the [*Day of the Week*] the [*Date, Month, and Year*], within [*specify particular Place*] in [*Town*]. A Composition

may be offered at this latter Meeting; and to entitle Creditors to the First Dividend their Oaths and Grounds of Debt must be lodged on or before the [*insert Date*].

All future Advertisements relating to this Sequestration will be published in the Edinburgh Gazette alone.

(Signed) *P.Q.*, Agent [*specify Place of Business*].

SCHEDULE (C.)

Form of Bond of Caution for Trustee.

I *A.B.* [*Name and Designation*], having been appointed Trustee on the sequestrated Estate of *C.D.* [*Name and Designation*], and I *E.F.* [*Designation*] as Cautioner, Surety, and full Debtor for and with the said *A.B.*, hereby bind and oblige ourselves, conjunctly and severally, our Heirs and Executors, That I the said *A.B.* shall faithfully discharge all the Duties which by Law attach to the said Office of Trustee, and fully account for my whole Intromissions with the said Estate, and make Payment of any Balance due by me to the Creditors on the said Estate, or Trustee elected by them to succeed me; declaring that this Bond shall not be in any way affected, nor shall I the said *E.F.* be liberated, by any Omission, Negligence, or Want of Diligence on the Part of the Creditors or Commissioners on the said Estate. [*In case the Caution has been limited by the Creditors, the following Clause will be here inserted:* And declaring further, that this Bond, so far as concerns me the said *E.F.*, shall not bind me or my foresaids to a greater Extent than the Sum of [*here insert Sum in Writing*], to which my Obligation before written is hereby limited.] In witness whereof this Bond (*so far as not printed*), written and filled up by [*here shall be inserted in Writing a testing Clause in legal Form*].

(Signed) *A.B.*
E.F.

O.T., Witness.
L.F., Witness.

SCHEDULE (D.)

Act and Warrant of Confirmation to the Trustee.

[*Place and Date.*]

The Sheriff of the County of [*insert County*] has confirmed and hereby confirms *A.B.* [*Name and Designation*] Trustee on the sequestrated Estate of *C.D.* [*Name and Designation*]; and the whole of the Estates and Effects, Heritable and Moveable, and Real and Personal, wherever situated, of the said *C.D.*, are transferred and belong to *A.B.* as Trustee for behoof of the Creditors of the said *C.D.*, in Terms of the Bankruptcy (Scotland) Act, 1855; and the said *A.B.* has, as Trustee aforesaid, in Terms of the said Act, full Right and Power to sue for and recover all Estates, Effects, Debts, and Money belonging or due to the said *C.D.*

(Signed) *C.D.*, Sheriff Clerk.

SCHEDULE (E.)

No. 1.

Abbreviate for the Register of Adjudications.

The whole Estates and Effects, Heritable and Moveable, and Real and Personal, wherever situated, of *C.D.* [*Name and Designation*], are transferred and belong to *A.B.* [*Name and Designation*], as Trustee on his sequestrated Estate, conform to Act and Warrant of Confirmation dated the Day of , issued in Terms of the Bankruptcy (Scotland) Act, 1855.

[*Signed by the Trustee or his Agent.*]

No. 2.

Certificate by the Keeper.

This Abbreviate was presented by [*Name and Designation*] on the Day of and recorded on [*Date*] in the Register of Abbreviates of Adjudications.

(Signed) *E.F.*, Keeper.

No. 3.

Abbreviate of Adjudication.

The Estates vested in *A.B.* [*Name and Designation*] as Heir of *C.D.* [*Name and Designation*] are transferred and belong to *E.F.* [*Name and Designation*], as Trustee on the sequestrated Estate of the said *C.D.*, conform to Deliverance by the Lord Ordinary, dated the Day of and in Terms of the Bankruptcy (Scotland) Act, 1855.

[*Signed by the Trustee or his Agent.*]

SCHEDULE (F.)

For the Gazette.

Sequestration of *C.D.* [*Designation*].

A.B. [*Name and Designation*], has been elected Trustee on the Estate, and *E.F.* and *G.* [*Names and Designations*], have been elected Commissioners. The Examination of the Bankrupt will take place in the Sheriff Court House [*or other Place*] on [*Day of Week*] the [*Date*] of [*Month*] next, at [*Hour*]. The Creditors will meet in [*specify the Place, Day, Date, Month, and Hour*] o'Clock. [*If any Offer of Composition has been entertained at the Meeting for Election of Trustee, intimate this, as provided by the Act.*]

[*Signed by the Trustee.*]

[*Date.*]

SCHE-

SCHEDULE (G.)

REGISTER OF SEQUESTRATIONS.

Name and Designation of Bankrupt.	Place and County of Bankrupt's Residence or Business.	Name and Designation of Petitioning or Concurring Creditor.	Whether Sequestration awarded by Sheriff (*state the County*) or by Court of Session.	Division of the Court, if by Court of Session.	Date of First Deliverance.	Date of awarding. (If recalled, Entry to be in this Column.)	Date of Transmission to Sheriff, and of Receipt by Sheriff Clerk.	Time and Place for electing Trustee.	Trustee's Name and Designation.	Commissioners Names and Designation.	Time for lodging Claims for Dividend.	Bankrupt's Discharge on or without Composition.	Date of Trustee's Discharge.

SCHEDULE (H.)

ANNUAL RETURN by each TRUSTEE on the Thirty-first Day of October, and by each SHERIFF CLERK within Fourteen Days thereafter.

Name and Designation of Bankrupt.	County and Place.	By whom Sequestration awarded.	Name and Designation of Trustee.	Names and Designation of Commissioners.	Amount of Funds as in the Bankrupt's State.	Amount of Funds realized.	Amount of Debts.	Allowance to Bankrupt.	Discharge on Composition or without Composition.	Amount of Composition, and when payable, and Names and Designations of Cautioners.	Dividend,—Amount paid or unpaid.	AMOUNT OF EXPENSES.		
												Trustees Commission.	Law Expenses.	Miscellaneous.

Signed by Trustee and by Sheriff Clerk.

SCHE-

SCHEDULE (I.)

Table of Fees payable under this Act.

I.—In the Court of Session.	£	s.	d.
(1.) To the Collector of the Fee Fund:			
Original Petitions for Sequestration, or any other Writ or Step by which a Process of Sequestration is originated	0	10	0
All other Papers, being Steps of Procedure, and not Productions, each	0	2	6
(2.) To the Keeper of the General Minute Book:			
For entering the First Deliverance, and Deliverance awarding Sequestration, Adjudication, and Discharge, and Approval of Composition, each	0	2	6
For entering any other Deliverance or Intimation	0	1	0
(3.) To the Extractors:			
For every Extract made of the Proceedings or of the Deliverance of the Lord Ordinary or Inner House, per Sheet	0	1	0
II.—To the Keepers of the Records.			
For entering any Schedule	0	1	0
For entering on the Margin of any Record the Recal of Sequestration, or Discharge in favour of the Bankrupt	0	1	0
For Access to and Liberty to make Excerpts of Proceedings under this Act from any Register or Record appointed herein to be kept, or in which Entries are herein appointed to be made, a Fee of *One Shilling* for each Year of the Record inspected, but not exceeding in all for any One Record	0	10	0
For Extracts or certified Copies therefrom, per Sheet	0	1	0
For collating and certifying Excerpts therefrom, per Sheet	0	0	6
III.—Sheriff Court.			
(1.) To the Sheriff Clerk:			
On every Deliverance pronounced by the Sheriff, declaring the Election of a Trustee, appointing Diets of Examination, granting a Discharge to the Bankrupt, approving of Composition, or exonerating the Trustee	0	2	6
For every other Deliverance, not being merely an Order for Papers or Revisals	0	1	0

	£	s.	d.
For every Transmission to or by him of the Proceedings	0	1	0
For entering the First Deliverance, and the Deliverance awarding Sequestration, in the Register, each (if separate)	0	0	6
For entering the Name and Designation of the Trustee and Commissioner in the Register	0	0	6
For issuing, receiving back, and examining Bond of Caution for Trustee, to be paid at the issuing of Bond	0	2	6
For Oath of the Bankrupt, and Examinations of him or others, per Sheet	0	1	0
For every Warrant of Apprehension or Citation of the Bankrupt or others, or Commission to take Examination	0	2	6
For every certified Copy or Extract of the Proceedings before the Sheriff, or of any Deliverance pronounced by him, per Sheet	0	1	0
For every Annual Report of the depending Sequestrations, for each Sequestration, to be paid by the Trustee	0	0	6
For every borrowing of all or any Part of the Proceedings	0	0	6
(2.) To the Sheriff:			
Attending any Meeting of Creditors or Examination, for each such Meeting or Diet of Examination, not being on the same Day	1	1	0

SCHEDULE (K.)

Table of Prices payable for Advertisements in the London or Edinburgh Gazette.

	£	s.	d.
For Six Lines and under	0	6	0
For more than Six Lines and not exceeding Ten Lines	0	7	6
For more than Ten Lines and not exceeding Fifteen Lines	0	10	6
For more than Fifteen Lines and not exceeding Twenty Lines	0	14	6
For more than Twenty Lines and not exceeding Twenty-five Lines	0	17	6
For more than Twenty-five Lines and not more than Thirty Lines	1	0	6

Insolvency and Bankrupt

(Scotland.)

A

BILL

To consolidate and amend the Laws of Sco
regarding Insolvency and Bankruptcy.

(Prepared and brought in by
The Lord Advocate and Sir George Grey.)

Ordered, by The House of Commons, *to be Print*
14 *May* 1855.

[Bill 120.]

Under 10 *oz.*

(Scotland.)

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Consolidate and amend the Laws of Scotland regarding Insolvency and Bankruptcy.

[Note.—*The Clauses marked* A. *to* I. *were added in Committee.*]

Preamble.

WHEREAS it is expedient to consolidate and amend the Laws relating to Insolvency and Bankruptcy, and for regulating the Sequestration of Estates of Bankrupts, in Scotland: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Short Title and Date of Act.

I. This Act may be cited as the "Bankruptcy (Scotland) Act 1855," and shall come into operation on and after the First Day of November One thousand eight hundred and fifty-five.

Acts repealed. 54 G. 3. c. 137. 2 & 3 Vict. c. 41. 16 & 17 Vict. c. 53.

II. The Acts passed in the Sessions of Parliament holden in the Fifty-fourth Year of the Reign of His Majesty King George the Third, Chapter One hundred and thirty-seven, and in the Second and Third Year of the Reign of Her present Majesty, Chapter Forty-one, and in the Sixteenth and Seventeenth Year of the Reign of Her present Majesty, Chapter Fifty-three, are hereby repealed; saving always their Effect in regard to any Act or Deed done or granted prior to the Date of this Act coming into operation.

Effect on existing Sequestrations.

III. All Sequestrations awarded on and after the said Date, or Proceedings occurring on or after the said Date, in Sequestrations which have been awarded before it under former Acts, and all Matters connected with Insolvency or Bankruptcy provided for by this Act which occur on or after the said Date, although the Insolvency or Bankruptcy with which they are connected has occurred before it, shall be regulated by this Act: Provided always, that it shall be competent for the Lord Ordinary, or the Sheriff in Sequestrations awarded before the said Date, to order, upon Cause shown, the next or any subsequent Proceedings therein to be conducted as if the Acts hereby repealed were still in force, and such Proceedings shall thereon be as valid as if the said Acts were unrepealed.

Construction and Meaning of Words.

IV. In this Act the Words "Lord Ordinary" shall mean the Lord Ordinary officiating on the Bills in the Court of Session; the Word "Deliverance" shall include any Order, Warrant, Judgment, Decision, Interlocutor, or Decree; the Words "Clerk or Officer of the Court of Session," shall include the Keeper of the Register of Abbreviates of Adjudications; the Word "Accountant" shall mean the Accountant in Bankruptcy appointed under this Act; the Word "Gazette" shall signify the Edinburgh Gazette; the Word "Commissioners" shall mean a Majority of the Commissioners elected under the Provisions of this Act; the Words "Property" and "Estate" shall, when not expressly restricted, include every kind of Property, Heritable or Moveable, wherever situated, and all Rights, Powers, and Interests therein capable of legal Alienation, or of being affected by Diligence or attached for Debt; the Word "Moveable" shall include Personal, and the Word "Heritable" shall include Real; the Word "Security" shall include Securities, Heritable or Moveable, and Liens and Preferences, and Conveyances thereof and any Part thereof; the Word "Successors" shall include all Persons succeeding to any Property which was vested in a Party deceased at the Time of his Death, whether as Heirs, Heirs Apparent, Trustees under voluntary Conveyances, Representatives by Deed or otherwise, Executors, Administrators, or nearest of Kin, or as Assignees, Legatees, or Singular Successors where they have acquired the Right; the Word "Vote" shall, as well as the ordinary Meaning thereof, include a Consent to any Offer of Composition, and to a Discharge of the Debtor, and also a Dissent from such Offer or Discharge; the Word "Company" shall include Bodies Corporate, Politic, or Collegiate, and Partnerships; the Words "Partner of a Company" shall include the Members of such Bodies; the Words "Debtor," "Bankrupt," and "Creditor," shall apply to Companies as well as Individuals, and shall include Aliens, unless in this, and also in the other Cases herein-above specified, a different Construction shall be provided.

V. Periods

V. Periods of Time in this Act shall be reckoned exclusive of the Day from which such Period is directed to run. Reckoning of Time.

CLAUSE A. Dates of Deeds.

VI. The Date of a Deed under this Act, or under the Act passed in the Parliament of Scotland held in the Year One thousand six hundred and ninety-six, Chapter Five, shall be the Date of recording of the Sasine, where Sasine is requisite, or of Registration of the Deed, or of Delivery, or of Intimation, or of such other Proceeding as shall in the particular Case be requisite for rendering such Deed completely effectual.

Constitution and Effects of Notour Bankruptcy.

CLAUSE B. Notour Bankruptcy of Individuals.

VII. Notour Bankruptcy shall be constituted by the following Circumstances:

1st. By Sequestration, or by the issuing of an Adjudication of Bankruptcy in England; or,

2d. By Insolvency, concurring either—

(A.) With a duly executed Charge for Payment, followed, where Imprisonment is competent, by Imprisonment or formal and regular Apprehension of the Debtor, or by his Flight or absconding from Diligence, or Retreat to the Sanctuary, or forcible defending of his Person against Diligence, or, where Imprisonment is incompetent or impossible, by Execution of Arrestment of any of the Debtor's Effects not loosed or discharged for Fifteen Days, or by Execution of Poinding of any of his Moveables, or by Decree of Adjudication of any Part of his Heritable Estate for Payment or in Security; or

(B.) With Sale of any Effects belonging to the Debtor under a Poinding, or under a Sequestration for Rent, or with his retiring to the Sanctuary for Twenty-four Hours, or with his making Application for the Benefit of Cessio bonorum.

Of a Company.

VIII. Notour Bankruptcy of a Company shall be constituted either in any of the foregoing Ways or by any of the Partners being rendered Notour Bankrupt for a Company Debt.

Commencement of Notour Bankruptcy.

IX. Notour Bankruptcy shall be held to commence from the Moment when its several Requisites come to co-exist, and when it has once been constituted shall continue, in case of a Sequestration, till the Debtor shall obtain his Discharge, and in other Cases until Insolvency cease, without Prejudice to being anew constituted within such Period.

Challenge may be in Court of Session or Sheriff Courts.

X. Deeds made void by this Act, and all Alienations of Property by a Party insolvent or Notour Bankrupt, void by Statute or at Common Law, may be set aside either by way of Action or Exception, and that either in the Ordinary Court of the Sheriff or in the Court of Session; and a Decree setting aside the Deed by Exception shall have the like Effect, as to the Party objecting to the Deed, as if such Decree were given in an Action at his Instance; and when set aside by Action, the Benefit of such Action shall accrue to such other Creditors entitled to have pursued such Action as shall reimburse the Raiser thereof of a proportionate Share of his Expenses incurred.

May be by Trustee.

XI. The Trustee on a sequestrated Estate under this Act shall be entitled to set aside any such Deed or Alienation for behoof of the whole Body of Creditors, and in so doing shall be entitled to the Benefit of any Presumption which would have been competent to any One Creditor.

Pari passu Ranking of Diligence.

Arrestments and Poindings.

XII. Arrestments and Poindings which shall have been used within Sixty Days prior to the Constitution of Notour Bankruptcy, or within Four Months thereafter, shall be ranked pari passu respectively as if they had respectively been used of the same Date; provided, that if such Arrestments are on the Dependence or on an illiquid Debt, they be followed up without undue Delay; provided further, that any Creditor judicially producing in a Process relative to the Subject of such Arrestment or Poinding liquid Grounds of Debt or Decree of Payment within such Period shall be entitled to rank as if he had executed a Poinding; and in case the first or any subsequent Arrester shall, in the meantime, have obtained a Decree of Forthcoming and Preference, and thereupon shall have recovered Payment, or a Poinding Creditor shall have carried through a Sale, he shall be accountable for the Sum recovered to those who, by virtue of this Act, may be eventually found to have a Right to a Ranking pari passu thereon, and shall be liable to an Action at their Instance for Payment to them proportionally, after allowing out of the Fund the Expense of recovering the same; and if any Arrestments be used for attaching the same Effects after the Period of Four Months subsequent to the Bankruptcy, such Arrestments shall not compete with those used within the said Periods prior or subsequent thereto, but may rank with each other on any Reversion of the Fund attached, according to the former Law and Practice.

Sequestration, when competent.

XIII. Sequestration may be awarded of the Estate of any Person in the following Cases: Sequestration may be awarded in Cases enumerated.

1st. In the Case of a living Debtor subject to the Jurisdiction of the Supreme Courts of Scotland:

A. On his own Petition, with the Concurrence of Creditors, qualified as herein-after mentioned:

B. On the Petition of Creditors, qualified as herein-after mentioned, provided he be Notour Bankrupt, and have within a Year before the Date of the Petition being presented resided or had a Dwelling House or Place of Business in Scotland; or otherwise, in the Case of a Company being Notour Bankrupt, as herein-before provided, if it have within such Time carried on Business in Scotland, and any Partner have so resided or had a Dwelling House or the Company have had a Place of Business in Scotland:

2d. In the Case of a deceased Debtor who at the Date of his Death was subject to the Jurisdiction of the Supreme Courts of Scotland: Sequestration of deceased Debtor.

A. On the Petition of a Mandatory to whom he had granted a Mandate to apply for Sequestration:

B. On the Petition of Creditors qualified as herein-after mentioned.

XIV. Petitions for Sequestration may be at the Instance or with the Concurrence of any One Creditor whose Debt amounts to not less than Fifty Pounds, or of any Two Creditors whose Debts together amount to not less than Seventy Pounds, or any Three or more Creditors whose Debts together amount to not less than One hundred Pounds, whether such Debts are liquid or illiquid, provided they are not contingent. Qualification of Creditors, petitioning or concurring.

XV. Petitions for Sequestration, in Cases falling under the Head marked B. in the First Clause of Section XIII., shall be competent only within Four Months of the Date of the Debtor's Notour Bankruptcy; and in Cases falling under the Head marked B. in the Second Clause in the said Section the Petition for Sequestration may be presented at any Time after the Debtor's Death, but no Sequestration shall be awarded until the Expiration of Six Months from the Debtor's Death, unless he was at the Time of his Death Notour Bankrupt, or unless his Successors shall concur in the Petition or renounce the Succession, in which several Cases Sequestration shall forthwith be awarded; and in all the Cases falling under Within what Date Petitions may be presented.

under the other Heads set forth in the said Section a Petition for Sequestration shall be competent at any Time, and Sequestration may follow thereon in manner herein-after directed.

Interim Preservation of Estate.

Court may take Measures to preserve Estate before Sequestration.

XVI. It shall be competent for the Court to which a Petition for Sequestration is presented, whether Sequestration can forthwith be awarded or not, on special Application by a Creditor, either in such Petition or by a separate Petition, with or without Citation to other Parties interested, as the said Court may deem necessary, or without such Petition if the Court think proper, to take immediate Measures for the Preservation of the Estate, either by the Appointment of a Judicial Factor, finding such Caution as may be deemed necessary, with the Powers necessary for such Preservation, including the Power to recover Debts, or by such other Proceedings as may be requisite; and such interim Appointments or Proceedings shall be carried into immediate Effect; but if the same have been made or ordered by the Sheriff, they may be recalled by the Court of Session, on Appeal taken, in manner herein-after directed.

After Sequestration Bankrupt's Papers may be sealed up.

XVII. The Sheriff shall have Power, upon Cause shown by any Creditor, or without any Application, if he shall think fit, at any Time after the Sequestration and before the Election of a Trustee, to seal up and cause to be put under safe Custody the Books and Papers of the Bankrupt, and to lock up his Shop, Warehouse, or other Repositories, and to keep the Keys thereof till a Trustee is elected and confirmed.

Forum.

Courts for awarding Sequestration.

XVIII. Sequestration may be awarded either by the Court of Session or by the Sheriff of any County in which the Debtor, within the Year preceding the Date of the Petition, had resided or carried on Business; provided, that no Sequestration shall be awarded by any Court after Production of Evidence that a Sequestration has already been awarded in another Court, and is still undischarged.

Later Sequestrations to be remitted to the first in Date.

XIX. When Sequestration has been awarded against a Debtor by the Sheriffs of Two or more Counties, the later Sequestration or Sequestrations shall, on Production of a Certificate by the Sheriff Clerk of the County in which the Sequestration first in Date which is unchallenged, or which on Appeal shall be confirmed, was awarded, setting forth the Date of such Sequestration, and that the same is unchallenged or has been confirmed, be remitted to the Sheriff of such County;

County; and where all the Sequestrations are of the same Date, any One may be brought by Appeal at any Time before either Division of the Court of Session or Lord Ordinary, in manner herein-after directed; and on such Appeal, or when a Sequestration has been awarded by the Court of Session alone, or by the Court of Session and also by One or more Sheriff Courts, the Court of Session or Lord Ordinary shall remit the Sequestration to such Sheriff Court as in the whole Circumstances they or he shall deem expedient; and a Notice of such Remit shall be inserted by the Clerks of the Bill Chamber in the Gazette within Four Days after such Remit shall have been made.

No Proceeding under Order of Sheriff to be effectual after Appeal, except for Preservation of Estate.

XX. It shall be competent in such Case for each Sheriff awarding Sequestration to take such Measures in the meantime as may be necessary for preserving the Debtor's Estate and Effects within his Jurisdiction, under the Provisions of this Act; but no other Orders given by any Sheriff on or after awarding Sequestration, except by the Sheriff to whom the Sequestration is remitted, and no Proceedings of Creditors or others in pursuance of any Orders, shall be of any Force or Effect from and after the Date of such Appeal, or of Sequestration by the Court of Session.

Clause C. Sequestration may be remitted to another Sheriff on Resolution of a Majority of Creditors.

XXI. It shall be competent for a Majority of Creditors at the Meeting for Election of a Trustee, in the Case of a Sequestration awarded by the Sheriff, and not remitted by the Court of Session to another Sheriff, to resolve that the Sequestration shall be removed from the Sheriff by whom it was awarded to any other Sheriff, and on such Resolution the Sheriff shall forthwith remit the Sequestration to the Sheriff selected by the Meeting, and such last-mentioned Sheriff shall thereafter be as fully empowered to act in the Sequestration as if the same had been originally awarded by him; provided, that all Orders by the Sheriff remitting, prior to the Remit, shall nevertheless remain valid.

Form of Petition, and Productions therewith.

Form of Petition.

XXII. Petitions for Sequestration in the Court of Session shall be made to the Lord Ordinary, and be signed by the Petitioner or his Counsel or Agent, and the Division of the Court to which the Sequestration is appropriated shall be marked thereon, and in the Sheriff Court shall be signed by the Petitioner or his Agent, and in either Court, in Petitions at the Instance of the Debtor, but not signed by him, there shall be produced therewith a Mandate authorizing the same, signed by him, or in the Case of a Company signed by a Party entitled to act for the Company; and in all Cases the Petitioning or Concurring Creditor shall produce with such Petition an Oath to the Effect herein-after specified, and also the Account and Vouchers of the

Oath to be produced.

Debt referred to in such Oath; failing which Production the Petition shall be dismissed.

Oath to be to Verity of Debt and Extent of Securities.

XXIII. Such Oath, in the Case of a Creditor residing within the Kingdom of Great Britain and Ireland, shall be taken by him before a Judge Ordinary, Magistrate, or Justice of the Peace, to the Verity of the Debt claimed by him; and he shall in such Oath state what other Persons, if any, are, besides the Bankrupt, liable for the Debt or any Part thereof, and specify any Security which he holds over the Estate of the Bankrupt or of other Obligants, and depone that he holds no other Obligants or Securities than those specified; and where he holds no other Person than the Bankrupt so bound, and no Security, he shall depone to that Effect.

How taken, when Creditor out of Great Britain or Ireland.

XXIV. Such Oath, in the Case of a Creditor who is out of the Kingdom of Great Britain and Ireland, shall be taken by him to the Verity of the Debt in the Manner above provided before a Magistrate or Justice of the Peace, or other Person qualified to administer Oaths in the Country where he resides, (he being certified to be a Magistrate or Justice of the Peace, or qualified as aforesaid, by a British Minister or British Consul, or by a Notary Public,) or his known Agent or Mandatory in Great Britain or Ireland shall make an Oath of Credulity in the Manner and to the Effect before provided.

Oath to specify further Particulars in certain Cases.

XXV. Where the Petition is presented for Sequestration of the Estates of a deceased Debtor, the Petitioning Creditor shall, in his Oath, or in a separate Oath, specify the Place where the Debtor resided or had a Dwelling House or carried on Business in Scotland at the Time of his Death, and whether he was the Owner of Estates in Scotland; and where the Petition is presented during the Life of the Debtor, without the Consent of the Debtor, the Petitioning Creditor shall in such Oath, in the event of the Debtor's Bankruptcy being founded on his retiring within the Sanctuary, swear that he believes the Debtor to have so retired as herein-before set forth.

Claims of Companies and Creditors who are Minors or incapable.

XXVI. Where the Creditor is a Corporation, an Oath of Verity made as aforesaid by the Secretary, Manager, Cashier, Clerk, or other principal Officer of such Corporation shall be sufficient, although the Person making the same be not a Partner in such Corporation, or in case of other Companies an Oath by a Partner shall be sufficient; and where any Creditor shall be under Age or incapable to make Oath, an Oath of Credulity as aforesaid by his authorized Agent, Factor, Guardian, or Manager shall be sufficient.

Citation

Citation on Petition.

When Citation of Parties necessary.

XXVII. When the Petition for Sequestration is presented without the Consent of the Debtor, or for the Sequestration of the Estate of a Debtor who is dead, the Lord Ordinary or Sheriff to whom it is presented shall grant Warrant to cite the Debtor, or, if dead, his Successor, to appear within a specified Period, if he be within Scotland, by delivering to him personally, or by leaving at his Dwelling House or Place of Business, or the Dwelling House or Place of Business last occupied by him, a Copy of the Petition and Warrant, and if the Debtor or his Successor be furth of Scotland, to cite him to appear within a specified Period by leaving such Copy at the Office of Edictal Citations, at the Dwelling House or Place of Business last occupied by him, and, if the Debtor be dead, also at the Dwelling House or Place of Business occupied by him at his Death, to show Cause why Sequestration should not be awarded; and the Lord Ordinary or the Sheriff shall, if desired, grant Diligence to recover Evidence of the Notour Bankruptcy or other Facts necessary to be established.

In Sequestration of a Company.

XXVIII. Where the Debtor is a Company it shall be a sufficient Citation that a Copy of the Petition and Warrant be left at the Place where the Business of the Company is or was last carried on, provided a Partner or a Clerk or a Servant of the Company be there, and failing thereof at the Dwelling House of any of the acting Partners, and if the House of such Partner cannot be found, by leaving a Copy at the Office of Edictal Citations; and Sequestration may be awarded either on the Application of the Company itself, or on the Application of a Creditor or Creditors to the Amount aforesaid, without the Consent of the Company, of the Estates of the Company and Partners jointly, or of their respective Estates separately.

Induciæ of Citation.

XXIX. The Induciæ of Citation, when made personally or at a Dwelling House or Place of Business, shall be not less than Six nor more than Fourteen Days, and when made edictally shall be Twenty-one Days; and the Lord Ordinary or the Sheriff at the same Time shall direct Intimation of the Warrant, and of the Diet of Appearance on such Induciæ, to be made in the Gazette: Provided always, in the Case of a deceased Debtor, that if on the Expiration of such Induciæ the Debtor's Successor do not appear, the Lord Ordinary or Sheriff shall direct Intimation of the Warrant, and of a new Diet of Appearance on like Induciæ, to be published in the Gazette, and such new Diet shall be peremptory.

Procedure on Petition.

Sequestration to be forthwith

XXX. When a Petition is presented in manner aforesaid to the Lord Ordinary, or to the Sheriff, for Sequestration, the Lord

awarded on Petition by Debtor.

Ordinary or the Sheriff shall forthwith, if the same is presented by or with the Concurrence of the Debtor, or, if dead, of his Successor, or if the Successor shall renounce the Succession, issue a Deliverance by which he shall award Sequestration of the Estates which then belong or shall thereafter belong to the Debtor before the Date of the Discharge, and declare the Estates to belong to the Creditors for the Purposes of this Act, and if the Debtor is dead shall ordain any Successor who has made up a Title to or is in possession of any Part of his Property to convey the same to the Trustee to be appointed as herein-after mentioned.

Sequestration to be awarded after Citation and hearing Parties when Petition not by Debtor.

XXXI. Where the Petition is not by or with the Concurrence of the Debtor, or, if dead, of his Successor, and if the Debtor, or, if dead, his Successor, do not appear at the Diet of Appearance, either in Person or by his Counsel or Agent, and show Cause why the Sequestration could not be competently awarded, or if the Debtor so appearing do not instantly pay or produce written Evidence of the Debt or Debts being satisfied in respect of which he was made Bankrupt, and also pay or satisfy or produce written Evidence of the Payment or Satisfaction of the Debt or Debts due to the Petitioner or Petitioners, or to any other Creditor or Creditors appearing and concurring in the Petition, the Lord Ordinary or Sheriff, on Production of Evidence of the Citation and of the foresaid Requisites for Sequestration, shall award Sequestration in manner and to the Effect before mentioned; and it shall not be competent for any Creditor, after the Date of the First Deliverance on the Petition for Sequestration, to be confirmed Executor Creditor, or to raise or insist in any Adjudication against the Estate of the deceased Debtor.

Appeal against Sheriff's Judgment awarding Sequestration

XXXII. The Deliverance of the Sheriff granting or refusing Sequestration shall be subject to Review by Appeal, in manner herein-after directed, to either Division of the Court of Session, or to the Lord Ordinary in Time of Vacation, and such Appeal shall be heard and decided summarily, but with Power to the Lord Ordinary to report the Case to either Division of the Court for their Decision; and the Judgment pronounced on Appeal by either Division or the Lord Ordinary shall be final; and Notice of such Appeal having been taken shall be given by the Clerks of the Bill Chamber within Four Days after the Receipt thereof by Advertisement in the Gazette.

Recal of Sequestration within Forty Days.

XXXIII. The Deliverance awarding Sequestration when given on Petition to the Lord Ordinary shall not be subject to Review; but any Debtor whose Estate has been sequestrated without his Consent, or the Successors of any deceased Debtor whose Estate has been sequestrated without their Consent, unless on the Application of a Mandatory

a Mandatory authorized by the deceased Debtor, or any Creditor, whether the Sequestration has been awarded by the Lord Ordinary or by the Sheriff, may, within Forty Days after the Date of such Deliverance, present a Petition to the Lord Ordinary, setting forth the Grounds for Recal, and praying for Recal; and when Sequestration has been awarded of the Estate of a deceased Debtor, when his Successor was edictally cited, it shall be competent for his Successor, or any Person having Interest, to apply by Petition as aforesaid at any Time before the Publication of the Advertisement for Payment of the First Dividend herein-after mentioned; and the Lord Ordinary shall, in these several Cases, order a Copy of the Petition for Recal and of his Deliverance to be served on the Parties who petition and concurred in the Petition for Sequestration, or on their respective known Agents, and on the Trustee, if appointed, and shall require them to answer within a specified short Time, and order a Notice of the presenting of the Petition for Recal to be published in the Gazette, and on the Expiration of the Time so fixed he shall proceed to pronounce Judgment; and if he shall recal the Sequestration, the Recal shall be entered in the Register of Sequestrations, and on the Margin of the Register of Inhibitions.

Recal of Sequestration at future Time.

XXXIV. No Petition for Recal of the Sequestration shall be competent after the Expiration of the said Forty Days, or after the Advertisement for Payment of the First Dividend respectively; provided that Nine Tenths in Number and Value of the Creditors ranked on the Estate as herein directed may apply for Recal by Petition to the Lord Ordinary, who shall order Notice of his Deliverance to be published in the Gazette, requiring all concerned to appear within Fourteen Days from the Date of Publication to show Cause why the Sequestration should not be recalled, and on Expiration of the said Time he shall proceed to pronounce Judgment.

Proceedings not to be stayed.

XXXV. Pending any Petition for Recal, and until the Sequestration be finally recalled, the Proceedings in the Sequestration shall go on as if no such Petition had been presented.

Sisting of one Party for another.

XXXVI. If a Creditor who has petitioned for Sequestration, or concurred in such Petition, or who has petitioned for Recal of a Sequestration, or appeared to oppose a Petition for Sequestration or Recal, or lodged an Objection, shall withdraw, or become bankrupt, or die, any other Creditor may be sisted in his Place and follow out the Proceedings; and if the Debtor shall die after the Petition for Sequestration is presented, the Proceedings shall notwithstanding be followed out in Terms of this Act, so far as Circumstances will permit.

CLAUSE D. Payment of Expenses of petitioning or concurring Creditor.

XXXVII. The petitioning or concurring Creditor shall be entitled to Payment by the Trustee, when he shall be appointed, out of the first of the Funds which shall come into his Hands, of the Expense incurred by such Creditor in obtaining the Sequestration and doing the other Acts hereby required prior to the Election of the Trustee, as the same shall be taxed.

Commencement of Sequestration.

XXXVIII. In all Questions under this Act or preceding Acts regarding Sequestration of the Estates of Debtors, the Sequestration shall be held to commence and take effect on and from the Date of the First Deliverance on any Petition for Sequestration, which shall be held to be the Date of the Sequestration, although the Sequestration be not actually awarded until a later Date.

Clerks to Sequestration.

XXXIX. In Sequestrations awarded in the Court of Session and remitted to the Sheriff the Process of Sequestration shall be held to be in the Bill Chamber of the Court of Session, and the Clerks of the Bill Chamber shall be Clerks to such Sequestrations; and the Sheriff Clerk of the County shall be Clerk to the Sequestrations awarded by the Sheriff of that County; and no Process of Sequestration, either in the Court of Session or Sheriff Court, shall fall asleep; and on a Remit of a Sequestration awarded in the Court of Session being made to the Sheriff, a Copy of the Petition for Sequestration, and of the First Deliverance, and also (where it is different) of the Deliverance awarding Sequestration, certified by One of the Clerks of the Bill Chamber, shall, with the Productions, be transmitted by the Petitioner to the Sheriff Clerk of the County to the Sheriff of which the Sequestration is remitted; and in all Sequestrations the Sheriff Clerk and Messengers-at-Arms and Officers of the Sheriff Court shall have Power to act in their respective Offices under this Act.

Sequestration not to fall asleep.

Protection or Liberation of Debtor.

Warrant of Protection may be granted to the Debtor.

XL. The Lord Ordinary or Sheriff, when awarding Sequestration, may grant to the Debtor or Partners of the Company against whom or which it is awarded, a Warrant of Protection against Arrest or Imprisonment for Civil Debt until the Meeting of the Creditors for the Election of Trustee, or he may refuse to grant such Warrant of Protection; and every such Warrant of Protection which shall not be advertised in the London and Edinburgh Gazettes within One Week after the Date of such Sequestration shall be ineffectual and incapable of being pleaded in bar of personal Diligence; but, notwithstanding the Lord Ordinary or Sheriff shall refuse to grant Interim Warrant of Protection as aforesaid, it shall be competent to the Creditors on the Occasion of the Meeting to elect a Trustee, or at the Meeting after the Examination of the Bankrupt, or at any subsequent

subsequent Meeting, to resolve that personal Protection ought to be granted to the Bankrupt for such Time as they may think fit, and the Trustee shall thereupon apply to the Sheriff, who shall grant the Protection.

Warrant to liberate the Debtor.

XLI. The Lord Ordinary or the Sheriff by whom Sequestration was awarded may, on Application made either in the Petition for Sequestration or by a separate Petition by the Debtor, grant Warrant for liberating the Debtor, if in Prison, after such Intimation to the incarcerating Creditor or his known Agent as the Lord Ordinary or the Sheriff may deem just, and after hearing any Objection to the granting of such Warrant; and if the Application be refused it shall be competent for the Debtor to make a new Application for Liberation, with Consent of the Trustee and Commissioners, and, on Intimation and hearing Objections as aforesaid, the Lord Ordinary or the Sheriff may grant Warrant to liberate; and in any Case the Lord Ordinary or the Sheriff may annex such Conditions of Caution or otherwise to such Warrant as he may judge proper.

Sheriff's Judgment subject to Appeal.

XLII. The Judgment of the Sheriff granting or refusing Liberation shall be subject to Review by a Note of Appeal to either Division of the Court of Session, or, during Vacation, to the Lord Ordinary, which Appeal shall be heard summarily, and the Judgment pronounced thereon shall be final.

Effect of Warrant of Protection or Liberation.

XLIII. The Warrant granting Protection or Liberation, or a Copy thereof, certified by One of the Bill Chamber Clerks if it is granted by the Lord Ordinary, or by the Sheriff Clerk if it is granted by the Sheriff, shall protect or liberate the Debtor from Arrest or Imprisonment in Great Britain and Ireland and Her Majesty's other Dominions, for Civil Debt contracted previous to the Date of Sequestration, and all Courts of Justice and Judges and all Officers and Gaolers shall be bound to give Effect to such Warrant; but such Warrant of Protection or Liberation shall not be of any Effect against the Execution of a Warrant of Apprehension or Imprisonment in meditatione fugæ or ad factum præstandum, or for any criminal Act.

Registration of Sequestrations.

Recording Abbreviate of Sequestration.

XLIV. The Party applying for Sequestration shall present, before the Expiration of the Second lawful Day after the First Deliverance if given by the Lord Ordinary, or present or transmit by Post before the Expiration of the Second lawful Day after the said Deliverance if given by the Sheriff, an Abbreviate of the Petition and Deliverance, signed

by him or his Agent, in the Form of Schedule (A. No. 1.) hereunto annexed, to the Keeper of the Register of Inhibitions at Edinburgh, who shall forthwith record the said Abbreviate in the Register of Inhibitions, and write and subscribe a Certificate thereof on the said Petition in the Form also specified in the said Schedule (A. No. 2.), and shall, on the Request of the Party transmitting such Abbreviate, and on Payment by him of the Fees of such Registration, and of the Postage, re-transmit the said Petition by Post to the said Party; and the Abbreviate so recorded shall from the Date of the said Deliverance have the Effect of an Inhibition and of a Citation in an Adjudication of the Estate of the Debtor at the Instance of the Creditors afterwards ranked on the Estate; and it shall not be competent to stop such Effect, or the Effect of the Sequestration after it is awarded, by paying the Debt or Debts in respect of which it was applied for or awarded; and if the said Abbreviate be not so recorded it shall have no Effect as an Inhibition or Citation as aforesaid, and the Party applying for Sequestration shall, within Four Days from the Date of the Deliverance awarding the Sequestration (if awarded in the Court of Session), or, if it is awarded by the Sheriff, within Four Days after a Copy of the said Deliverance could be received in course of Post in Edinburgh, insert a Notice in the Form of Schedule (B.) hereunto annexed in the Gazette, and also One Notice in the same Terms within Six Days from the said Date in the London Gazette.

Ranking of Claims.

1st. General Rules as to Voting and Ranking for Payment of Dividends.

Creditor claiming must produce Oath.

XLV. To entitle a Creditor to vote or draw a Dividend he shall be bound to produce at the Meeting, or in the Hands of the Trustee, an Oath to the Effect and taken in manner herein-before appointed in the Case of Creditors petitioning for Sequestration, and the Account and Vouchers necessary to prove the Debt referred to in such Oaths.

Clause E. Oath in Cases where Accounts and Vouchers are not in Creditor's Possession.

XLVI. If the Creditor be not in possession of such Accounts and Vouchers previously to the Period herein-after assigned for lodging Claims with a view to a Share in any Dividend, he shall state, on his Oath, the Cause of the said Accounts and Vouchers not being produced, and in whose Hands, to the best of his Knowledge, the same are; which Oath shall entitle him to have a Dividend set apart till a reasonable Time be afforded for Production or for otherwise establishing his Debt according to Law; but he shall not be entitled to act or vote till such Production be made, or the Debt established as aforesaid; and the Trustee shall, on Production of the Oaths and Grounds of Debt, mark the same with his Initials, and make an Entry thereof in the Sederunt

Sederunt Book, and of the Date when the same were produced, and, if required, he shall return to the Creditor the Grounds of Debt.

Provision for Correction of Oath.

XLVII. When it shall appear to the Sheriff or to the Trustee that the Oath or Claim of any Person produced with a view to voting or ranking, and drawing a Dividend on the Sequestration, is not framed in the Manner required by this Act, the Sheriff or Trustee, as the Case may be, shall call upon such Person, or his Agent or Mandatory, to rectify his Oath and Claim, pointing out to him wherein it is defective; and unless such Person shall thereupon make such Alteration upon his Oath and Claim as may be necessary in order to rectify the same, the Sheriff or Trustee, as the Case may be, shall disallow or reject such Oath and Claim: Provided always, that when the Failure to comply with the Provisions of this Act shall appear to have been made for some improper or fraudulent Purposes, or where Injury can be qualified by the other Creditors or any of them in respect thereof, it shall not be incumbent upon the Sheriff or Trustee to give such Person an Opportunity to rectify his Oath and Claim as aforesaid.

Creditors may vote and rank for Principal and Interest to Date of Sequestration only.

XLVIII. A Creditor who has a Claim or a Debt due shall be entitled to vote and rank for the accumulated Sum of Principal and Interest to the Date of the Sequestration, but not for any Interest accruing after the Date of the Sequestration, and if the Debt is not payable till after the Date of the Sequestration, he shall be entitled to vote and rank for it only after Deduction of the Interest from that Date, and he shall also be liable to Deduction of any Discount beyond legal Interest to which his Claim is liable by the Usage of Trade applicable to it, but he shall not be bound to specify separately in his Oath or Claim for his Debt the Amount of any Interest due thereon or of any Interest or Discount deducted therefrom, or to specify therein any accumulated Sum of Principal and Interest, and if there be any Residue of the Estate after discharging the Debts ranked he shall be entitled to claim out of such Residue the full Amount of the Interest on his Debt in Terms of Law.

Valuation of Claim depending on a Contingency.

XLIX. When the Claim of a Creditor depends upon a Contingency which is unascertained at the Date of lodging his Claim, he shall not be entitled to vote nor to draw a Dividend in respect of such contingent Debt, but he may apply to the Sheriff, if the Trustee has not been elected, or, if elected, to the Trustee, to put a Value on such Debt, and the Sheriff or Trustee (as the Case may be) shall put a Value thereon as at the Date of such Valuation; and on such Value being fixed such Creditor shall be entitled to vote and draw Dividends in respect of such Value, and no more: Provided that if such Contingency have taken place before the Debt has been valued, such

Creditor may vote and draw Dividends in respect of the Amount of the Debt, but the same shall not disturb any former Dividends allotted to other Creditors; and when such Application is made to the Sheriff, Notice thereof shall be given to the Bankrupt and petitioning or concurring Creditor; and the Judgment of the Sheriff or Trustee shall be subject to Review, and any Creditor who has claimed on the Estate may appeal, or appear and be heard on any Appeal.

Valuation of Claim on Annuity.

L. No Creditor in respect of an Annuity granted by the Bankrupt shall be entitled to vote and draw a Dividend until such Annuity shall be valued, but he may, if the Trustee has not been elected, apply to the Sheriff, or, if elected, to the Trustee, to put a Value on such Annuity; and the Sheriff or Trustee, as the Case may be, shall put a Value on the Annuity, regard being had to the original Price given for the Annuity, deducting therefrom such Diminution in the Value of the Annuity as shall have been caused by the Lapse of Time since the Grant thereof to the Date of the Sequestration; and such Creditor shall be entitled to vote and draw Dividends in respect of such Value, and no more: Provided always, that when such Application is made to the Sheriff, Notice thereof shall be given to the Bankrupt and the petitioning or concurring Creditor; and the Judgment of the Sheriff or Trustee shall be subject to Review, and any Creditor who has claimed on the Estate may appeal, or appear and be heard on any Appeal.

Liability and Claims of Cautioners for Annuities.

LI. When any Person is bound as Cautioner for Payment of such Annuity, it shall not be lawful for the Creditor therein to sue or charge such Cautioner after the Date of the Sequestration, except for the Value fixed as aforesaid, and the Arrears of Annuity and Interest thereon; and on such Cautioner making Payment of such Value and Arrears to the Creditor, and the lawful Interest thereon, he shall be discharged of all Liability for such Annuity, and he may thereupon enter a Claim in the Sequestration for the Sum so paid, and vote and draw Dividends thereon: Provided that if such Cautioner shall not pay the Sum so fixed and Arrears and Interest as aforesaid before any Payment of the Annuity subsequent to the fixing thereof becomes due, he shall be bound to make Payment of the said Annuity, and all subsequent Annuities, until he shall make Payment of the Sum so fixed, Arrears of Annuity and Interest as aforesaid; deducting always such Dividends as the Creditor shall have received before full Payment as aforesaid.

Claiming or acting in the Sequestration not to

LII. When a Creditor has an Obligant bound to him along with the Bankrupt for the whole or Part of the Debt, such Obligant shall not be freed from his Liability for such Debt in respect of any Vote

Vote given or Dividend drawn by the Creditor, or of his assenting to the Discharge of the Bankrupt, or to any Composition; but such Obligant may require and obtain, at his own Expense, from such Creditor, an Assignation to the Debt, on Payment of the Amount thereof, and in virtue thereof enter a Claim on the said Estate, and vote and draw Dividends, if otherwise legally entitled to do so. discharge Co-Obligants.

LIII. No Person shall, by merely lodging an Oath and Claim, or being ranked or receiving Payment of a Dividend, or appearing or voting at a Meeting in a Sequestration as a Creditor, be liable for any Claim by the Agent or other Person employed by the Trustee for Money advanced, or Expense incurred, or Remuneration in relation to the Affairs of the Estate, reserving to the Agent or other Person so employed Right to Payment out of the Estate and from the Trustee by whom he may have been employed, in so far as the same may be competent to him; and no Trustee shall have Relief in respect of such Payment against such Creditor, reserving to such Trustee Relief against the Estate, and against those Creditors or others who may on other Grounds be liable in Relief. Liability of Creditors for Expenses.

LIV. In no Case shall Oaths of Verity or Credulity supersede Production of legal Evidence, when required, in any judicial Discussion before the Court of Session, the Lord Ordinary, the Sheriff, or the Trustee. Oaths not to supersede other Evidence.

2d. Special Rules as to Voting.

LV. If a Creditor hold a Security for his Debt over any Part of the Estate of the Bankrupt, he shall, before voting, make an Oath, in which he shall put a specified Value on such Security, and deduct such Value from his Debt, and specify the Balance, and if the Estate over which the Security extends be sold, he shall specify in his Oath the free Proceeds which he has received or shall be entitled to receive therefrom, and specify the Balance due after Deduction thereof, and he shall be entitled in any Case to vote in respect of the Balance, and no more, without Prejudice to the Amount of his Debt in other respects; and in Questions as to the Disposal or Management of the Estate subject to his Security he shall be entitled to vote as a Creditor for the full Amount of his Debt, without making any such Deduction. Valuation of Securities for voting.

LVI. When a Creditor has an Obligant bound with but liable in Relief to the Bankrupt, or holds any Security from an Obligant liable in Relief to the Bankrupt, or any Security from which the Bankrupt has a Right of Relief, such Creditor shall, before voting, Valuation of Obligations of Co-Obligants with Bankrupt.

make an Oath, in which he shall put a specified Value on the Obligation of such Obligant, and on such Security, to the Extent to which the Bankrupt is entitled to Relief, and he shall deduct such Value from his Debt, and specify the Balance, and he shall be entitled to vote in respect of such Balance, and no more, without Prejudice to the Amount of his Debt in other respects.

Valuation of Claims against a Company and Partners.

LVII. A Creditor on the Estate of a Company shall not be bound, for the Purpose of voting on the Company's Estate, to deduct from his Claim the Value which he may be entitled to draw from the Estates of the Partners; but if he claim on the Estate of a Partner, he shall, before voting, in his Oath put a specified Value on his Claim against the Estate of the Company, and also against the other Partners thereof, in so far as they are liable to relieve such Partner, and deduct such Value from his Debt, and specify the Balance, and he shall be entitled to vote as a Creditor for the said Balance, and no more, without Prejudice to the Amount of his Debt in other respects.

Trustee may require a Conveyance of Security by Creditor on 20 per Cent. Addition to his own Valuation.

LVIII. It shall be competent to the Trustee, with Consent of the Commissioners, within Two Months after an Oath, specifying the Value of a Security, or Obligation, or Claim in the several Cases before mentioned, has been made use of in voting at any Meeting or in assenting to or dissenting from the Bankrupt's Composition or Discharge, and it shall also be competent to the Majority of the Creditors (excluding the Creditor making such Oath) assembled at any Meeting, and during such Meeting, to require from the Creditor making such Oath a Conveyance or Assignation in favour of the Trustee of such Security, Obligation, or Claim, on Payment of the specified Value, with Twenty per Centum in addition to such Value; and the Creditor shall be bound to grant such Conveyance or Assignation, at the Expense of the Estate: Provided that where a Creditor has put a Value on such Security or Obligation, he may at any Time before he has been required to convey and assign as aforesaid, correct such Valuation by a new Oath, and deduct such new Value from his Debt.

Creditor may correct Valuation by new Oath.

Mandatories for Creditors may vote.

LIX. The Mandatory of any Person entitled to vote as a Creditor may vote in the Absence of such Creditor, provided he exhibit a Mandate; and the Vote of such Mandatory shall, within his Mandate, be held as the Vote of the Creditor himself.

Persons acquiring Debts after Sequestra-

LX. No Person who shall acquire after the Date of the Sequestration, otherwise than by Succession or Marriage, a Debt due by the Bankrupt, shall be entitled to vote in the Election of

Trustee

Trustee or Commissioners, but in all other respects such Person may be reckoned as a Creditor. tion not to vote.

3d. Special Rules as to Ranking for Payment of Dividends.

LXI. To entitle any Creditor who holds a Security over any Part of the Estate of the Bankrupt to be ranked in order to draw a Dividend, he shall on Oath put a specified Value on such Security, and deduct such Value from his Debt, and specify the Balance; and the Trustee, with Consent of the Commissioners, shall be entitled to a Conveyance or Assignation of such Security, at the Expense of the Estate, on Payment of the Value so specified out of the first of the Common Fund, or to reserve to such Creditor the full Benefit of such Security; and in either Case the Creditor shall be ranked for and receive a Dividend on the said Balance, and no more, without Prejudice to the Amount of his Debt in other respects. Valuation of Securities with a view to a Dividend.

LXII. When a Creditor claims on the Estate of the Partner of a Company in respect of a Debt due by such Company, the Trustee on the Estate of such Partner shall, before ranking such Creditor, put a Valuation on the Estate of the Company, and deduct from the Claim of such Creditor such estimated Value, and rank and pay to him a Dividend only on the Balance. Value of Claim against a Company to be deducted from Claim against Partners.

Election and Removal or Resignation of Trustee.

LXIII. The Lord Ordinary or the Sheriff, by the Deliverance which awards the Sequestration, shall appoint a Meeting of the Creditors, to be held at a specified Hour, on a specified Day, being not earlier than Six nor later than Twelve Days from the Date of such Deliverance, at a convenient Place within the County of the Sheriff awarding Sequestration, or to whom the Sequestration is remitted, to elect a Trustee or Trustees in Succession, and do the other Acts herein-after provided. Appointment of Meeting to elect a Trustee.

LXIV. Creditors or their Mandatories, qualified as aforesaid, shall assemble at the Time and Place fixed for the Election of Trustee, with Power to adjourn for such reasonable Time as may seem fit, provided such Adjournment do not postpone the Meeting for the Election of Trustee beyond the Limit of the Period within which that Meeting is by this Act appointed to be held; and if Two or more Creditors shall give Notice to the Sheriff or Sheriff Substitute of the County, such Sheriff or Sheriff Substitute (or in case of necessary Absence a Sheriff Substitute authorized by the Sheriff to act under this Act) shall attend the Meeting and adjourned Meetings, and preside; and the Sheriff Clerk or his Depute shall also attend, and mark the Oaths and Productions with his Initials, and write the Minutes in the Presence of the Meeting, and enter therein the Names and Designations Procedure at Meeting for Election of Trustee.

tions of the Creditors present, or the Mandatories of Creditors, and the Amount for which they claim, and any other Circumstances which the presiding Sheriff shall judge fit, which Minutes the presiding Sheriff shall sign; and the Clerk shall retain the Oaths of the several Claimants, subject to the Exhibition thereof in his Hands, till the Election shall be determined, when he shall deliver the same to the Trustee; and when the Sheriff or Sheriff Substitute is not present the Creditors shall elect a Preses and (if the Sheriff Clerk or a Depute be not present) a Clerk; and the Preses shall mark the Oaths and Productions with his Initials, and sign the Minutes; and the Clerk shall, in the Presence of the Meeting, write the Minutes, and enter therein the Names and Designations of the Creditors or Mandatories, and the Amount for which they claim, and any other Circumstances relating to the said Meeting which the Preses shall judge fit, which Minutes the Preses shall sign; and the Creditors or their Mandatories who have produced their Oaths and Documents of Debt, and who have been entered in the Minutes, shall then and there elect a fit Person to be Trustee, or Two or more Trustees, to act in succession, in case of Nonacceptance, Death, Resignation, Removal, or Disqualification, and in the Case of the Sequestration of the Estates of a Company and of the Partners, One Trustee for all the Estates, or separate Trustees on the Estates of the Company and on the Estates of all or each of the individual Partners or Trustees in succession as aforesaid; and it shall not be lawful to elect as Trustee the Bankrupt, or any Person conjunct or confident with the Bankrupt, or who holds an Interest opposed to the general Interest of the Creditors, or whose Residence is not within the Jurisdiction of the Court of Session.

Judgment of Sheriff as to Trustee.

LXV. If the Sheriff or ordinary Sheriff Substitute be present at the Election of Trustee, and there be no Competition for the Office, or Objection stated to the Candidate or Candidates, he shall, by a Deliverance on the Minutes, declare the Person chosen by the Creditors to be Trustee, and if there be Competition, or Objections to the Candidate or Candidates, such Objections to the Votes or Candidates shall be stated at the Meeting, and the Sheriff or ordinary Sheriff Substitute may either forthwith decide thereon, or make Avizandum, and he shall, if necessary, make a short Note of the Objections and of the Answers, on which he shall, within Four Days after the Meeting, hear Parties vivâ voce, and declare the Person or Persons Trustee or Trustees in succession whom he shall find to have been duly elected, and state the Grounds of his Decision in a Note, and the same, as well as such short Note, shall form Part of the Process.

When Sheriff or ordinary Sheriff Sub-

LXVI. When the officiating Sheriff present at the said Meeting for the Election is a Sheriff Substitute appointed to act in the Absence

Absence of the Sheriff or of the ordinary Sheriff Substitute of the County, or when the Preses has been elected by the Creditors, such Substitute or Preses (whether there be any Competition or Objection or not) shall forthwith report the Proceedings to the Sheriff or ordinary Sheriff Substitute; and the Oaths of the several Claimants shall, if the Sheriff Clerk or his Depute be present, remain in his Possession, or, if he be not present, shall be transmitted to the Sheriff Clerk by the Preses, to be retained by him till the Trustee shall be finally appointed, when he shall deliver the same to the Trustee; and if there be no Competition or Objection the Sheriff or ordinary Sheriff Substitute shall declare the Person or Persons elected Trustee or Trustees in succession; and if there be Competition or Objection the Parties shall, within Four Days from the Date of the said Meeting, lodge in the Hands of the Sheriff Clerk short Notes of Objections, and the Sheriff or ordinary Sheriff Substitute shall forthwith hear Parties thereon vivâ voce, and give his Decision, and state the Grounds thereof in a Note, which Note, as well as such short Notes, shall form Part of the Process. stitute not present.

LXVII. The Judgment of the Sheriff or Sheriff Substitute declaring the Person or Persons elected to be Trustee or Trustees in succession, shall be given with the least possible Delay; and such Judgment shall be final, and in no Case subject to Review in any Court or in any Manner whatever. Judgment of Sheriff as to Trustee final.

LXVIII. The Creditors shall at the Meeting for Election of a Trustee fix a Sum for which the Trustee shall find Security for his Intromissions and Performance of the Duties and Rules hereby enacted, and shall also decide on the Sufficiency of the Caution offered by the respective Competitors; and the Person declared to be Trustee shall forthwith lodge with the Sheriff Clerk a Bond of Caution, signed by the Trustee and his Cautioner, in the Form of the Schedule (C.) hereunto annexed, which Bond shall be furnished to him by the Sheriff Clerk. Caution to be found by Trustee.

LXIX. On the Decision of the Sheriff or Sheriff Substitute being given, declaring the Person elected Trustee, and on a Bond by the Trustee and his Cautioner being duly lodged as aforesaid, the Sheriff shall confirm his Election as Trustee, which Confirmation shall be final, and not subject to Review in any Court or in any Manner whatever; and the Sheriff Clerk shall issue an Act and Warrant in the Form of Schedule (D.) hereunto annexed to the Trustee, and the Trustee shall immediately transmit a Copy of such Act and Warrant to the Accountant in Bankruptcy, who shall make an Entry of the Name and Designation of the Trustee in the Register Act and Warrant in favour of Trustee.

of Sequestrations, and such Act and Warrant shall be an effectual Title to the Trustee to perform the Duties hereby imposed on him, and shall be Evidence of his Right and Title to the sequestrated Estate, for the Purposes of this Act; and a Copy of such Act and Warrant in favour of the Trustee, purporting to be certified by the Accountant in Bankruptcy, and to be authenticated by One of the Judges of the Court of Session, shall be received in all Courts and Places within England, Ireland, and Her Majesty's other Dominions as primâ facie Evidence of the Title of the Trustee, without Proof of the Authenticity of the Signatures or of the official Character of the Persons signing, and shall entitle the Trustee to recover any Property belonging or Debt due to the Bankrupt, and to maintain Actions, in the same Way as the Bankrupt might have done if his Estate had not been sequestrated.

To be a complete Title to him.

LXX. A Majority in Number and Value of the Creditors present at any Meeting duly called may remove the Trustee, or accept of his Resignation; and One Fourth of the Creditors in Value may at any Time apply by Petition to the Lord Ordinary for Removal of the Trustee, and the Lord Ordinary shall order such Petition to be served on the Trustee, and intimated in the Gazette; and if the Lord Ordinary shall be satisfied that sufficient Reason has been shown, he shall remove the Trustee, and appoint a Meeting of the Creditors to be held for devolving the Estate on the Trustee next in succession, or electing a new Trustee; and if the Trustee shall die, resign, or be removed, or remain at any One Time for Three Months furth of Scotland, any Commissioner, or any Creditor ranked or claiming and entitled to be ranked on the Estate, may apply to the Sheriff for an Order to hold a Meeting for devolving the Estate on the next Trustee in succession, or electing a new Trustee; and the Sheriff shall grant Warrant to hold such Meeting at a certain Time and Place, which shall be advertised in the Gazette by the Commissioner or Creditor so applying, and at the Time and Place so appointed the Creditors at such Meeting may devolve the Estate on the Trustee next in succession, or elect a new Trustee; and when the Estate is devolved on such Trustee the Creditors shall fix the Amount for which he shall find Security, and on a Bond being lodged the Sheriff shall confirm him, and an Act and Warrant shall be issued and recorded in the same Way and to the same Effect as in the first Election of a Trustee; and in all Cases of a new Election of a Trustee the Procedure shall take place in the like Manner as is herein-before provided in the Case of the First Election; and the succeeding or new Trustee shall be vested with the Powers and perform the Duties and be subject to the same Rules as are herein-before provided, and shall call to account the former Trustee, or his Heirs or Representatives.

Removal or Resignation of Trustee.

Election of a new Trustee.

Election

Election and Removal of Commissioners.

Election of Commissioners.

LXXI. At the Meeting for Election of a Trustee the Creditors present or their Mandatories shall, after the Election of the Trustee, elect Three Commissioners (if there be so many Creditors who have claimed), who shall be either Creditors or Mandatories of Creditors, and the like Proceedings shall take place in regard to their Election as is provided in regard to the Election of Trustee (except that they shall not be bound to find Security); and the Sheriff shall decide finally who are the Persons duly elected, and declare their Election by a Deliverance in the Sederunt Book, which shall entitle them to act without further Confirmation, and a Majority of them shall be a Quorum: Provided that no Person shall be eligible as a Commissioner who is disqualified to be a Trustee; and any Mandatory who has been elected a Commissioner shall lose that Office, upon written Intimation being sent by his Constituent to the Trustee that he has recalled the Mandate, and the Trustee shall immediately record the Intimation in the Sederunt Book; and the Trustee shall, in all Cases where a Commissioner has declined to act, or resigned, or become incapacitated, call a Meeting of Creditors for the Purpose of electing a new Commissioner, and such Commissioner shall be elected in manner herein-before provided.

Clause G. Removal of Commissioners.

LXXII. A Majority of the Creditors assembled at any Meeting duly called may remove a Commissioner, and may elect another in his Place, in manner before directed.

Protection and Allowance to Bankrupt.

Protection to Bankrupt.

LXXIII. At the Meeting for the Election of a Trustee, or at the Meeting held after the Examination of the Bankrupt, or at any Meeting called for the Purpose, the Majority in Number and Value of the Creditors present may resolve that the personal Protection of the Bankrupt ought to be renewed for such Time as they may think fit, and in such Case the Trustee shall apply to the Sheriff, who shall renew the Protection, and the Deliverance by him renewing the same, or an Extract thereof signed by the Sheriff Clerk, shall have the same Effect as the original Warrant of Protection.

Allowance to Bankrupt.

LXXIV. At the Meeting for Election of a Trustee, or at the Meeting held after the Examination of the Bankrupt, or at any Meeting called for the Purpose, Four Fifths in Value of the Creditors present may authorize Payment from Time to Time to the Bankrupt, or to the Partners of a Company, (if the Sequestration be of a Company Estate,) of such Sum out of the Estate as they shall think proper for Sustenance, until the Period assigned for Payment of the Second

Dividend, but such Allowance shall not exceed Three Pounds Three Shillings per Week to the Bankrupt, or to each individual Partner of a Company, from the Date of Sequestration to the Period aforesaid, and no Allowance shall be given if the Bankrupt shall not have complied with the Provisions of this Act: Provided always, that if it shall at any Time be the Opinion of a Majority of the Creditors present at a regular Meeting that it is for the Interest of the Estate that a special Allowance should be further made to the Bankrupt, and if the Accountant in Bankruptcy shall report in its Favour, it shall be competent for either Division of the Court, on Application by the Trustee, with the said Concurrence of Creditors, and Report by the Accountant, to award such Allowance, which shall then be payable out of the Estate.

Duties of Trustee and Commissioners.

Record of Abbreviate of his Confirmation.

LXXV. The Trustee, within Twenty-one Days after his Election is confirmed, shall present an Abbreviate, signed by him or his Agent, in the Form of Schedule (E. No. 1.), hereunto annexed, to the Keeper of the Register of Abbreviates of Adjudications, who shall forthwith record the same, and write and subscribe a Certificate on the said Abbreviate in the Form specified in the said Schedule (E. No. 2); and the like Proceeding shall take place within Twenty-one Days after the Election of each new Trustee shall be confirmed.

Trustee to take possession of Estate and Books, and make up Inventory.

LXXVI. The Trustee shall, as soon as may be after his Appointment, take possession of the Bankrupt's Estate and Effects, and of his Title Deeds, Books, Bills, Vouchers, and other Papers and Documents, and also make up an Inventory of such Estate and Effects, and a Valuation showing the estimated Value and the annual Revenue thereof, and shall forthwith transmit Copies thereof to the Office of the Accountant in Bankruptcy.

Bankrupt to make up State of his Affairs;

LXXVII. The Bankrupt shall make up, and at the Meeting appointed for the Election of a Trustee deliver to the Clerk of such Meeting, a State of his Affairs, specifying his whole Property, wherever situated, the Property in expectancy or to which he may have an eventual Right, the Names and Designations of his Creditors and Debtors, and the Debts due by and to him, and a Rental of his Heritable Property, which State and Rental shall be subscribed by the Bankrupt, and preserved by the Clerk to the Sequestration, until the Trustee be elected and confirmed, and shall then be delivered to the Trustee, and Abstracts thereof shall be engrossed in a Sederunt Book to be kept by the Trustee; and the Bankrupt shall at all Times give every Information and Assistance necessary to enable the Trustee to execute his Duty; and if the Bankrupt fail

and to give Information and grant Deeds.

to

to do so, or to grant any Deed which may be requisite for the Recovery of his Estate, the Trustee may apply to the Sheriff to compel him to give such Information and Assistance, and to grant such Deeds, under the Penalty of Imprisonment and of Forfeiture of the Benefit of this Act, and unless Cause be shown to the contrary the Sheriff shall issue a Warrant of Imprisonment accordingly.

Trustee to recover Funds.

LXXVIII. The Trustee shall manage, realize, and recover the Estate belonging to the Bankrupt, wherever situated, and convert the same into Money, according to the Directions given by the Creditors at any Meeting, and if no such Directions are given, he shall do so with the Advice of the Commissioners; and he shall lodge all Money which he shall receive in such Bank as the Majority of the Creditors in Number and Value at any General Meeting shall appoint, and failing such Appointment, in any Joint Stock Bank of Issue in Scotland (provided that the Bank be not One in which the Trustee shall be an acting Partner, Manager, or Cashier); and the Money shall be lodged in the Name of the Trustee, in his official Character under this Act, at the highest Rate of Interest which can be procured for the same; and such Bank shall, once yearly at least, balance such Account, and accumulate the Interest with the Principal Sum, so that both shall thereafter bear Interest as Principal; and if such Bank fail to do so such Bank shall be liable to account as if such Interest had been so accumulated.

Penalty on Trustee retaining Funds.

LXXIX. If the Trustee shall keep in his Hands any Sum exceeding Fifty Pounds belonging to the Estate for more than Ten Days, he shall pay Interest to the Creditors at the Rate of Twenty Pounds per Centum per Annum on the Excess of such Sum above Fifty Pounds for such Time as the same shall be in his Hands beyond Ten Days; and unless the Money has been so kept from innocent Causes, the Trustee shall be dismissed from his Office, upon Petition to the Lord Ordinary or Sheriff by any Creditor, and have no Claim to Remuneration.

Trustee to keep a Sederunt Book, and send Copy of Accounts to Accountant in Bankruptcy.

LXXX. The Trustee shall keep a Sederunt Book, in which he shall record all Minutes of Creditors and of Commissioners, States of Accounts, Reports, and all the Proceedings necessary to give a correct View of the Management of the Estate, and he shall also keep regular Accounts of the Affairs of the Estate, and transmit to the Accountant in Bankruptcy, before each of the Periods herein assigned for Payment of a Dividend, a Copy, certified by himself, of such Accounts, in so far as not previously transmitted, and such Copies shall be preserved in the Office of the Accountant; and the Sederunt Book and Accounts shall be patent to the

Commissioners and to the Creditors or their Agents, at all Times: Provided always, that when any Document is of a confidential Nature (such as the Opinion of Counsel on any Matter affecting the Interest of the Creditors on the Estate) the Trustee shall not be bound to insert it in the Sederunt Book, or to exhibit it to any other Person than the Commissioners, unless he be ordered by competent Authority to do so.

Duties of Commissioners.

LXXXI. The Commissioners shall superintend the Proceedings of the Trustee, concur with him in Submissions and Transactions, give their Advice and Assistance relative to the Management of the Estate, examine the Acts and Intromissions of the Trustee, audit his Accounts, fix his Remuneration, decide as to paying or postponing Payment of a Dividend, and may assemble at any Time to ascertain the Situation of the Bankrupt Estate, and any One of them may make such Report as he may think proper to a General Meeting of the Creditors.

Judicial Factor, Trustee, and Commissioners amenable to Lord Ordinary and Sheriff.

LXXXII. The Judicial Factor, the Trustee, and Commissioners shall be amenable to the Lord Ordinary and to the Sheriff, although resident beyond the Territory of the Sheriff, at the Instance of any Party interested, to account for their Intromissions and Management, by Petition served on them; and in case it shall appear that such Application ought not to have been made, the Party complained of shall be entitled to his full Expenses, to be either retained out of the Funds, or recovered from the Party complaining, as the Lord Ordinary or the Sheriff shall direct.

Examination of Bankrupt.

Sheriff to name a Day for Bankrupt's Examination.

LXXXIII. The Trustee shall, within Eight Days after the Date of the Act and Warrant confirming him, apply to the Sheriff to name a Day for the public Examination of the Bankrupt in open Court, and the Sheriff shall issue his Warrant for the Bankrupt to attend within the Sheriff Court House on a specified Day and at a specified Hour, being not sooner than Seven Days nor later than Fourteen Days from the Date of the Sheriff's Warrant for such Examination; and on the Sheriff granting such Warrant the Trustee shall publish an Advertisement, in Terms of Schedule (F.) hereunto annexed, in the Gazette, and send by Post or otherwise special Notice to every Creditor, intimating his Name and Designation, his Election as Trustee, the Day, Hour, and Place fixed for the Examination of the Bankrupt, and also a specified Day, being not sooner than Seven Days nor later than Fourteen Days after the Day appointed for the Examination of the Bankrupt, or, in case of a deceased Debtor, not

not sooner than Seven Days nor later than Fourteen Days from the Date of the Trustee's Confirmation, and also the Hour and Place for holding a Second Meeting of the Creditors.

Sheriff may grant Warrant to bring Bankrupt for Examination.

LXXXIV. It shall be competent for the Sheriff to grant a Warrant to apprehend the Bankrupt, and bring him before the Sheriff for Examination; and if the Bankrupt be imprisoned for a Debt or other Civil Obligation within Scotland, the Sheriff may grant Warrant to Magistrates and Gaolers, on receiving a Duplicate of such Warrant, and an Acknowledgment for the Person of the Bankrupt, to deliver him to the Officer presenting the same, and they shall do so accordingly; and the Sheriff may also grant Warrant to bring the Bankrupt from the Sanctuary, which Warrant shall protect him against Arrest for Debt or other Civil Obligation while under Examination, and on the Way to and from the Place of Examination, and shall be sufficient Authority, either within or beyond the Territory of the Sheriff in Scotland, to Messengers-at-Arms, and to the Officers of the Sheriff, to apprehend, transmit, detain, and imprison, and to Gaolers to deliver up, receive, and detain, the Bankrupt, until his Examination is concluded, and also for his Re-transmission after Examination to the Gaol from which he was delivered up, and Re-imprisonment therein; and if the Bankrupt cannot be brought from Gaol or the Sanctuary, or cannot be examined by the Sheriff there, or is by a lawful Cause prevented from attending at the Time and Place appointed, or is in Custody on a Criminal Charge, or is abroad, the Sheriff may grant Commission to take the Examination; and the Sheriff or Commissioner may, if he see Cause, adjourn the Examination of the Bankrupt to ane arly Day, to be then fixed; and the Sheriff may, on the Application of the Trustee, order the Bankrupt to be examined as often as he shall see fit.

Apprehension and Transmission of the Bankrupt when out of Scotland.

LXXXV. If the Bankrupt be in any Part of Great Britain and Ireland other than Scotland, the Lord Ordinary may, on Petition by the Trustee, grant Warrant to all Judges, Magistrates, Justices of the Peace, and Officers of the Law, to apprehend and transmit him to the Place of his Examination, and to enforce the same, which they are hereby required to do; and if the Bankrupt be in Prison or Custody, the Lord Ordinary may grant Warrant as aforesaid to Magistrates and Gaolers, upon receiving a Duplicate of such Warrant, and an Acknowledgment for the Person of the Bankrupt, to deliver him to the Messenger or Officer presenting such Warrant, which they shall do accordingly; and such Warrant shall be sufficient Authority for the Apprehension, Transmission, Detention, and Imprisonment of the Bankrupt (when necessary for his safe Custody), and for his Re-

transmission after Examination to and Re-imprisonment in the Prison or Custody from which he was delivered up.

Examination of Bankrupt's Wife and others.

LXXXVI. The Sheriff may, at any Time, on the Application of the Trustee, order an Examination of the Bankrupt's Wife and Family, Clerks, Servants, Factors, Law Agents, and others, who can give Information relative to his Estate, on Oath, and issue his Warrant requiring such Persons to appear; and if they refuse or neglect to appear, when duly summoned, the Sheriff may issue another Warrant to apprehend the Person so failing to appear: Provided that when such Person is not the Bankrupt, nor his Wife, nor One of his Family, nor his Clerk or Servant, no Warrant for Apprehension shall be issued until the Expiration of Eight Days from the Service of the First Warrant, unless the Trustee shall, on Oath, specify a reasonable Cause of Belief that such Person intends to leave the Country to avoid the Examination, in which case the Sheriff may forthwith issue such Warrant; which several Warrants shall be sufficient to authorize Messengers-at-Arms, or the Officers of the Sheriff, to execute the same, either within or without the Territory of the Sheriff in Scotland as aforesaid; and if any Person liable to be examined cannot attend, the Sheriff may grant Commission to take his Examination; and such Examination, whether by the Sheriff or by a Commissioner, may be adjourned, if it shall seem fit, to an early Day, to be then fixed: Provided that Persons, other than the Bankrupt, summoned to attend for Examination shall be entitled to such Allowances as Witnesses are in other Cases entitled to, and the Amount of which, if disputed, shall be fixed by the Sheriff.

Bankrupt and others must answer lawful Questions, and produce Documents.

LXXXVII. The Bankrupt and such other Persons shall answer all lawful Questions relating to the Affairs of the Bankrupt; and the Sheriff may order such Persons to produce for Inspection any Books of Account, Papers, Deeds, Writings, or other Documents in their Custody relative to the Bankrupt's Affairs, and cause the same, or Copies thereof, to be delivered to the Trustee.

Mode of Examination.

LXXXVIII. The Examination of the Bankrupt, and of such other Persons, shall be taken upon Oath, and shall, except in the Cases already specified, wherein a Commission is allowed to be granted, take place before the Sheriff, and the Bankrupt's Examination shall be taken and may be written or dictated by the Sheriff, and authenticated in the ordinary Way as a regular Deposition; but Notes of the Evidence of such other Persons may be written by the Sheriff in the Mode prescribed by the Act passed in the Sixteenth and Seventeenth Year

Year of the Reign of Her present Majesty, Chapter Fifty-three, with regard to Proofs in Civil Cases in the Sheriff Courts, except where it shall appear to him necessary to record and authenticate such Evidence, in whole or in part, in the Form of a regular Deposition.

Penalty on Refusal to answer, &c.

LXXXIX. If the Bankrupt or any of such other Persons shall refuse to be sworn, or to answer, to the Satisfaction of the Sheriff, any lawful Question put to him by the Sheriff or Trustee, or by any Creditor with the Sanction of the Sheriff, or without lawful Cause shall refuse to sign his Examination, or to produce Books, Deeds, or other Documents in his Custody or Power relating to the Estate, the Sheriff may grant Warrant to commit him to Prison, there to remain until he comply with the Order, which Warrant shall specify the Question and Answer, Book, Deed, Document, or the Refusal to swear or to sign the Examination; and such Warrant shall not be subject to the Review of the Court of Session, but the Bankrupt or Person imprisoned may apply by written Petition (without Argument) to the Lord Ordinary for a Recal of the Warrant, and the Lord Ordinary shall order the Petition to be served on the Trustee or the Creditor, and shall thereafter hear Parties vivâ voce, and pronounce Judgment.

Penalty on latent Partner of Bankrupt Company not coming forward.

XC. If any latent Partner of a Company whose Estates have been sequestrated shall not, by Intimation to the Trustee, acknowledge that he is a Partner, on or before the Day appointed for the Examination of the known Partners, he shall not be entitled to the Benefits or Privileges of this Act, unless in an Application for the same he shall satisfy the Lord Ordinary or the Sheriff that the Omission proceeded from innocent Mistake, or Ignorance of the Proceedings, or reasonable Misconception as to his Liability as a Partner, and unless he shall then follow out all necessary Steps for remedying as far as possible the Loss and Inconvenience thence arising.

Bankrupt may correct his State, and then must take Oath inserted in this Act.

XCI. The Bankrupt, before the Close of his Examination, may make such Additions to or Alterations upon the State of his Affairs as may have occurred to him to be necessary to give a full View of his Affairs, which State, with the Additions and Alterations, shall be subscribed by the Sheriff and the Bankrupt; and the Bankrupt shall then take the following Oath, which shall be engrossed in the Sederunt Book, and subscribed as aforesaid, as relative to such State; and when the Bankrupt is a Partner with others, and examined

respecting the Affairs of the Partnership, the Words of the Oath shall so far be varied as to make it applicable to the Case:

Oath.

'I DO, in the Presence of Almighty God, and as I shall answer to God at the great Day of Judgment, solemnly swear, That the 'State of my Affairs subscribed by me as relative hereto contains 'a full and true Account, to the best of my Knowledge and Belief, 'of all the Debts, of whatever Nature, due to me, and of all my 'Estate and Effects, Heritable and Moveable, Real and Personal, 'wherever situated (the necessary Wearing Apparel of myself, 'my Wife and Family, only excepted), as well as of all Claims 'which I am entitled to make against any Person or Persons 'whatsoever, and of all Estate in expectancy, or Means, of what-'ever kind, to which I have an eventual Right by Contract of 'Marriage, Trust Deed, Settlement, Deed of Entail, or otherwise; 'and that the said State likewise contains a full and true Account of 'all Debts due by me or Demands upon me; and that I have 'delivered up the whole Books, Documents, Accounts, Title Deeds, 'and Papers of every kind belonging to me which in any way relate 'to my Affairs, and which were or are in my Possession or under my 'Power; and that I have made a full Disclosure of every Particular 'relating to my Affairs: And further, I promise and swear, That I 'will forthwith reveal all and every other Circumstance or Particular 'relative to my Affairs which may hereafter come to my Knowledge, 'and which may tend to increase or diminish the Estate in which my 'Creditors may be interested, directly or indirectly.'

Powers of Second and subsequent Meetings of Creditors.

Report by Trustee after Bankrupt's Examination.

XCII. Prior to the Meeting of Creditors after the Examination of the Bankrupt, the Trustee shall prepare a Report setting forth the State of the Bankrupt's Affairs, and an Estimate of what the Estate may produce, which Report he shall exhibit at the Meeting of Creditors,

Powers of Creditors over Estate.

and give all Explanations relative thereto; and the Creditors assembled at such Meeting may receive an Offer of Composition, as herein-after provided, and may, either at this or any other Meeting, give Directions for the Recovery, Management, and Disposal of the Estate; and when any Part of the Estate consists of Land or other Heritable Property, it shall be optional to the Creditors to determine whether the Trustee is to bring such Property to Judicial Sale, or to dispose thereof by voluntary Public Sale.

Proceedings if Bankrupt do not make a fair Surrender.

XCIII. If it shall appear to a Majority of the Creditors in Number and Value assembled at any Meeting after the Examination of the Bankrupt, that he has not made a full and fair Surrender of his Estate,

Estate, or that he has disposed of or concealed any Part of his Funds, to the Prejudice of his Creditors, or that his Bankruptcy has been fraudulent, they may direct a Meeting to be called for taking the Subject into consideration, on Seven Days Notice, and such Meeting, if they see Cause, may authorize the Trustee to proceed against him in Terms of Law, at the Expense of the Estate.

Calling of and Procedure at Meetings.

When Meetings to be called.

XCIV. The Trustee, or any Commissioner with Notice to the Trustee, may at any Time call a Meeting of the Creditors, and the Trustee shall call such Meeting, when required by One Fourth in Value of the Creditors ranked on the Estate, or by the Accountant in Bankruptcy.

Notice of Meetings.

XCV. Notice of the Day, Hour, Place, and Purpose of all Meetings of Creditors under this Act shall be advertised in the Gazette Seven Days at least before the Day of the Meeting, and such Meeting may be adjourned to the following Day.

No Notice to be sent in certain Cases.

XCVI. It shall not in any Case be necessary to send any Notification of the Day or Place of Meetings by Post to any Creditor whose Debt shall be under Twenty Pounds, unless such Creditor shall have given Directions in Writing that such Notification shall be sent; and no Notification shall be sent to any Creditor who has directed that none shall be sent.

Rules as to computing Majorities.

XCVII. All Questions at any Meeting of Creditors shall be determined by the Majority in Value of those present and entitled to vote, unless in the Cases herein otherwise provided for; and when, for the Purpose of voting, the Creditors are required to be counted in Number, no Creditor whose Debt is under Twenty Pounds shall be reckoned in Number, but his Debt shall be computed in Value.

Extent of Trustee's Right.

Vesting of Estate in Trustee.

XCVIII. The Act and Warrant of Confirmation in favour of the Trustee shall ipso jure transfer to and vest in him or any succeeding Trustee, for Behoof of the Creditors, absolutely and irredeemably, as at the Date of the Sequestration, with all Right, Title, and Interest, the whole Property of the Debtor, to the Effect following:

Vesting of Moveable Estate.

1st. The Moveable Estate and Effects of the Bankrupt, wherever situated, so far as attachable for Debt, to the same Effect as if actual Delivery or Possession had been obtained, or Intimation made at that Date, subject always to such preferable Securities as existed at the Date of the Sequestration, and are not null or reducible:

Vesting of Heritable Estate in Scotland.

2d. The whole Heritable Estate belonging to the Bankrupt in Scotland, to the same Effect as if a Decree of Adjudication in Implement of Sale, as well as a Decree of Adjudication for Payment and in Security of Debt, subject to no legal Reversion, had been pronounced in favour of the Trustee, and recorded at the Date of the Sequestration, and as if a Poinding of the Ground had then been executed, subject always to such preferable Securities as existed at the Date of the Sequestration, and are not null and reducible, and the Creditors' Right to poind the Ground, as herein-after provided; and the Right of the Trustee shall not be challengeable on the Ground of any prior Inhibition (saving the Effect which such Inhibition may be entitled to in the ranking of the Creditors): Provided always, that such Transfer and vesting of the Heritable Estate shall have no Effect upon the Rights of the Superior, nor upon any Question of Succession between the Heir and Executor of any Creditor claiming on the sequestrated Estate, nor upon the Rights of the Creditors of the Ancestor (except that the Act and Warrant of Confirmation shall operate in their favour as complete Diligence):

Vesting of Real Estates in England, Ireland, and other British Dominions.

3d. The whole Real Estate belonging to the Bankrupt situated in England, Ireland, or in any of Her Majesty's Dominions: Provided that where, according to the Laws of England, Ireland, or other Her Majesty's Dominions, any Deed or Conveyance would require Registration, Enrolment, or recording, the Act and Warrant of Confirmation shall be so registered, enrolled, or recorded according to the Laws of England, Ireland, or other Her Majesty's Dominions; and if any Purchase is made by any Person for valuable Consideration, and without Notice of the Sequestration, prior to the Registration, Enrolment, or recording of the said Act and Warrant of Confirmation, such Purchase shall not be invalidated by the Existence of such Act and Warrant, or the subsequent Registration, Enrolment, or recording thereof.

Acquisitions of Bankrupt after the Sequestration to belong to the Creditors.

XCIX. If any Estate, wherever situated, shall, after the Date of the Sequestration, and before the Bankrupt has obtained his Discharge, be acquired by him, or descend or revert or come to him, the same shall ipso jure fall under the Sequestration, and the full Right and Interest accruing thereon to the Bankrupt shall be held as transferred to and vested in the Trustee, as at the Date of the Acquisition thereof or Succession, for the Purposes of this Act; and the Trustee shall, on coming to the Knowledge of the Fact, present a Petition setting forth the Circumstance to the Lord Ordinary, who shall appoint Intimation, to be made in the Gazette, and require all concerned to appear within a certain Time for their Interest; and after the Expiration of such Time, and no Cause shown to the contrary, the Lord Ordinary shall

shall declare all Right and Interest in such Estate which belongs to the Bankrupt to be vested in the Trustee, as at the Date of the Acquisition thereof or Succession thereto, to the same Effect as is herein-before enacted in regard to the other Estates; and the Proceeds thereof, when sold, shall be divided in Terms of this Act; and if the Bankrupt do not immediately notify to the Trustee that such Estate has been acquired, or has come to him as aforesaid, he shall forfeit all the Benefits of this Act, and it shall be competent to the Trustee to examine him as aforesaid in relation thereto: Provided always, that the Rights of the Creditors of the Person from whom such Estate shall come or descend to the Bankrupt shall be reserved entire.

Subjects improperly included in Sequestration may be struck out.

C. Any Person claiming Right to any Estate included in the Sequestration may present a Petition to the Lord Ordinary, praying to have such Estate struck out of the Sequestration, and the Lord Ordinary shall order the Trustee to answer within a certain Time, and on Expiration of such Time he shall proceed to dispose of the Application.

Trustee may complete Feudal Titles or grant such Rights as Bankrupt could do.

CI. The Bankrupt shall, if required, grant all Deeds necessary for recovering his Estates and feudally vesting his Heritable Estate in the Trustee for the Purposes of this Act; and if the Bankrupt's Title to any Estate has not been completed, the Trustee may complete Titles in his own Person, whom failing, in favour of any Trustee who may succeed him, for Behoof of the Creditors, or in the Person of the Bankrupt; and Superiors shall, if required, enter the Trustee or the Purchaser from him in Terms of Law; and the Trustee may, without making up a Feudal Title in his Person, and without Concurrence of the Bankrupt, grant Conveyances of the Heritable Estate belonging to the Bankrupt, with such Procuratories, Precepts, or other Warrants, as the Bankrupt might competently have granted, which Conveyances shall be as effectual to the Purchaser as if they had been granted by the Bankrupt with Concurrence of the Trustee, and shall not be affected by any Inhibition against the Bankrupt, reserving the Effect of such Inhibition in the ranking.

Trustee may get Property transferred to him, although the Heir of the Bankrupt has made up Titles.

CII. When Sequestration is awarded against the Estate of a Person after his Death, and his Successor has made up a Title to his Heritable Estate, the Trustee may apply by Petition to the Lord Ordinary, praying that such Estate shall be transferred to and vested in him, and the Lord Ordinary shall order the Petition to be served upon such Successor, and require him to answer the same within Fourteen Days; and an Abbreviate of such Petition and Deliverance, in Terms of the Schedule (A. No. 3.) hereunto annexed, being recorded

in the Register of Inhibitions kept at Edinburgh, it shall have the Effect of an Inhibition, and the Keeper thereof shall write on the said Petition a Certificate in Terms of the said Schedule (A. No. 2.); and if on Expiration of that Period no Cause is shown to the contrary, the Lord Ordinary shall declare such Estate to be transferred to and vested in the Trustee, as at the Date of the Sequestration, to the same Effect as is herein-before provided in regard to the Act and Warrant of Confirmation; and the Trustee shall, within Eight Days thereafter, cause an Abbreviate of such Petition and Deliverance to be recorded in the Register of Abbreviates of Adjudications, in Terms of the Schedule (E. No. 3.) hereunto annexed, and the Keeper of the said Register shall write on such Abbreviate a Certificate in Terms of the said Schedule (E. No. 2.)

Decree to be recorded in the Register of Adjudications.

Effect of Sequestration on Ranking of Creditors.

Sequestration equivalent to an Adjudication in Competition;

CIII. The Sequestration shall, as at the Date thereof, be equivalent to a Decree of Adjudication of the Heritable Estates of the Bankrupt for Payment of the whole Debts of the Bankrupt, Principal and Interest, accumulated at the said Date, and when it is dated within Year and Day of any effectual Adjudication, the Estate shall be disposed of under the Sequestration according to the Provisions of this Act: Provided, that nothing herein contained shall affect the Rights of any Heritable Creditor holding a Power of Sale preferable to the Trustee.

And to Arrestment and Poinding.

Diligence on or after Sixtieth Day before Sequestration, or after it, ineffectual.

Expenses of Diligence.

CIV. The Sequestration shall, as at the Date thereof, be equivalent to an Arrestment in Execution and Decree of Forthcoming, and to an executed or completed Poinding; and no Arrestment or Poinding executed of the Funds or Effects of the Bankrupt on or after the Sixtieth Day prior to the Sequestration shall be effectual; and such Funds or Effects, or the Proceeds of such Effects, if sold, shall be made forthcoming to the Trustee: Provided, that any Arrester or Poinder before the Date of the Sequestration who shall be thus deprived of the Benefit of his Diligence shall have Preference out of such Funds or Effects for the Expense bonâ fide incurred by him in such Diligence.

Interruption of Prescription.

CV. The presenting of or concurring in a Petition for Sequestration, or the lodging a Claim in the Hands of the Trustee, or the Sheriff officiating, or Preses at any Meeting of Creditors, shall interrupt Prescription of the Creditor's Debt so petitioning, concurring, or claiming, and in regard to such Debt shall bar the Effect of any Statute of Limitations in England or Ireland, or other Her Majesty's Dominions, and although this Sequestration shall be recalled, such Interruption or Bar shall, notwithstanding, be effectual.

CVI. When

Preferences in case of a deceased Debtor.

CVI. When the Sequestration of the Estates of a deceased Debtor is dated within Seven Months after his Death, any Preference or Security for any prior Debt acquired by legal Diligence on or after the Sixtieth Day before his Death, or subsequent to his Death, and any Preference or Security acquired for a prior Debt by any Act or Deed of the Debtor which has not been lawfully completed for a Period of more than Sixty Days before his Death, and any Confirmation as Executor-Creditor after the Debtor's Death, shall in these several Cases be of no Effect in competition with the Trustee; and the Estates and Effects over which such Preferences or Securities shall have been obtained, or of which Confirmation shall have been expede, shall belong to the Trustee: Provided, that the Creditor who is so deprived of the Benefit of his Diligence or Confirmation shall have Preference for Payment out of the said Estates or Effects of the Expenses bonâ fide incurred by him in such Diligence or Confirmation.

Acts and Payments by Bankrupt after Sequestration null, except in certain Cases.

CVII. All Payments and Preferences or Securities obtained by or granted to prior Creditors, and all Acts done or Deeds granted by the Bankrupt after the Date of the Sequestration and before his Discharge out of or in relation to the Estate (unless with the Consent of the Trustee), shall, in the event of Sequestration being awarded, be null and void; and the Trustee shall be entitled to such Preference or Security, and to any Money so paid, deducting any Expense bonâ fide incurred; but if a bonâ fide Purchaser is in possession of Moveable Effects received from the Bankrupt after Sequestration, and when ignorant thereof for a Price paid, or which he is ready to pay, he shall not be obliged to restore the Effects; and if a Debtor, when ignorant of the Sequestration, have paid his Debt bonâ fide to the Bankrupt, he shall not be obliged to pay it a Second Time to the Trustee; and if the Possessor of any Bill or Promissory Note, with Recourse on other Parties, which is payable by the Bankrupt, or of a Security for a Debt due by the Bankrupt, shall have received Payment of his Debt from the Bankrupt in Ignorance of the Sequestration, and given up such Bill, Promissory Note, or Security to the Bankrupt, such Person shall not be liable to repay to the Trustee the Amount so received, unless the Trustee shall replace him in the Situation in which he stood, or reimburse him for any Loss or Damage.

Realization of Heritable Estate.

Sale of Heritable Estate by Creditor.

CVIII. A Creditor who holds a Security over the Heritable Estate of the Bankrupt, preferable to the Right of the Trustee, with a Power to sell, may sell, in Terms of his Security, notwithstanding the Sequestration, and it shall be competent to the Trustee to concur

therein in order to fortify the Title; and the Trustee or any posterior Heritable Creditor preferable to him may, by Petition to the Lord Ordinary or to the Sheriff, compel the said Creditor and the Purchaser to account for any Reversion of the Price.

Creditor infeft on Adjudication may sell.

CIX. A Creditor who has been infeft for Two Years on a Decree of Adjudication, or Creditors who have been conjoined pari passu in such Decrees and have been infeft thereon for Two Years, whether the Estates of the Debtor have been sequestrated or not, shall have Power to sell the Lands or Heritages adjudged by him or them, irredeemably, in like Manner and under the same Provisions and Conditions as an Heritable Creditor, with a Power of Sale under the Act passed in the Tenth and Eleventh Year of the Reign of Her present Majesty, Chapter Fifty: Provided that he or they shall be liable to account to the Debtor or his Representatives for the Price received by him or them under such Sale, after Deduction of his or their Debts, Principal, Interest, Penalty, and Expenses, as specified in the said Act.

Sale by Trustee with Concurrence of Heritable Creditors.

Discharge of Burdens on Sale.

CX. If a Creditor holding an Heritable Security, with a Power to sell, concur with the Trustee in bringing the Estate to Sale, the Trustee shall sell the same in his own Name, and the Articles of Roup and Conveyance to the Purchaser shall be executed by the Trustee, with Consent of such Creditor and the Commissioners; and the Price shall be paid by the Purchaser to the Parties legally entitled thereto, and in so far as not paid at the Time of the Delivery of the Conveyance, it shall be consigned in the Bank in which the Money of the sequestrated Estate is deposited; which Payment or Consignation of the Price shall free and discharge the Estate sold and the Purchaser from the Security of the consenting Creditor, whether the Debt in such Security be satisfied or not, and from all Securities postponed to the Security of such Creditor.

Sale by Trustee alone.

CXI. If the Creditors, at the Meeting held after the Examination of the Bankrupt, or at any other Meeting called for the Purpose, resolve that the Trustee shall dispose of the Heritable Estate by Public Sale or bring it to Judicial Sale, and if such Resolution has been made before an Heritable Creditor having a Power of Sale shall have commenced Proceedings for Sale, or if such Proceedings, after being commenced prior to the Date of such Resolution, have thereafter been unduly delayed, such Creditor shall not be entitled to interfere with the Sale by the Trustee; and if a Public Sale of the Heritable Estate be resolved on, such Sale shall be made by Auction at the Upset Price and in the Manner which shall be fixed by the Trustee, with Consent of the Commissioners.

CXII. In

Sale without Consent of Creditors on Application to the Court.

CXII. In the event of there being an Heritable Creditor or Creditors holding Securities over the Estate preferable to the Right of the Trustee, but who have not commenced or duly followed out Proceedings to sell before the Creditors have resolved to sell in manner before mentioned, and who shall not consent to a Sale by the Trustee, it shall be competent to the Trustee to apply by summary Petition to either Division of the Court of Session, for Authority to sell, with which Petition shall be produced a Report from the Accountant in Bankruptcy, bearing that he concurs in the Proposal to sell, and specifying the Sum which he recommends as the Upset Price; and the Court, after hearing the Heritable Creditors not consenting, and all Parties interested, shall grant or refuse the Prayer of the Petition, and if they grant the same, they shall fix the Upset Price; and it shall be also competent for them to declare that the Conveyance to the Purchaser by the Trustee, on Payment of the Price, or Consignation thereof as aforesaid, shall operate a Discharge of the Estate from all Burdens, as in a Ranking and Sale, but reserving to the Heritable Creditors a Real Right to the Price in the Order of their several Securities; and the Court shall also decide as to the Expense of these Proceedings, and whether it shall form, in whole or in part, a Burden on the Price.

Discharge of Burdens by Authority of the Court.

Sale without Application to Court.

CXIII. If no Application is made by the Trustee as herein-before provided, the Sale may, notwithstanding, proceed in Terms of the Resolution of the Creditors to that Effect, but the Payment or Consignation of the Price, and the Conveyance of the Estate by the Trustee to the Purchaser, shall, in that Case, free and discharge the Estate from the Securities of the non-consenting Creditors, whose Rights are preferable to the Right of the Trustee, only in so far as the Debts in their Securities are satisfied by such Payment or Consignation, but shall discharge the Estate from all Securities which are not so preferable and from all Diligence not completed at the Date of the Sequestration.

Trustee may with Approval of Accountant sell by private Bargain.

CXIV. It shall be competent for the Trustee, with Concurrence of a Majority of the Creditors in Number and Value, and of the Heritable Creditors, if any, and of the Accountant in Bankruptcy, to sell the Heritable Estate by private Bargain, on such Terms and Conditions regarding Price and otherwise, as the Trustee, with Concurrence of those Parties, may fix.

Trustee to make up a Scheme of Ranking and Division of Price.

CXV. It shall be the Duty of the Trustee to make up a Scheme of Ranking and Division of the Claims of the Heritable Creditors and other Creditors on the Price of the Heritable Estate sold; and such Scheme of Ranking and Division being brought before the Lord

Ordinary or before either Division of the Court of Session, with a Report thereon by the Accountant in Bankruptcy, shall be disposed of in like Manner as a Scheme of Division prepared under a Ranking and Sale, any Interlocutor of the Lord Ordinary thereon being subject to Review in the usual Form; and the Judgment thereon shall be a Warrant for Payment out of the Price against the Purchaser of the Heritable Estate.

Court may grant Interim Warrant for Payment out of Price.

CXVI. It shall be competent for the Lord Ordinary or the Court, on Application by the Trustee or any Creditor interested, with a Report thereon by the Accountant in Bankruptcy, and on Cause shown, to grant an Interim Warrant on the Price for Payment of preferable Claims, or to authorize an Interim Scheme of Division out of the Price, which Scheme of Division shall be disposed of as the Scheme of Division already provided for.

Heritable Creditor's Right to poind the Ground limited.

CXVII. No Poinding of the Ground which has not been carried into execution by Sale of the Effects at least Sixty complete Days before the Day of the Sequestration, and no Decree of Maills and Duties on which a Charge has not been given at least Sixty complete Days before the said Day, shall (except to the Extent herein-after provided) be available in any Question with the Trustee: Provided, that no Creditor who holds a Security over the Heritable Estate preferable to the Right of the Trustee shall be prevented from executing a Poinding of the Ground, or obtaining a Decree of Maills and Duties after the Sequestration, but such Poinding or Decree shall, in competition with the Trustee, be available only for the Interest on the Debt for the current half-yearly Term, and for the Arrear of Interest for One Year immediately before the Commencement of such Term.

Landlord's Hypothec saved.

CXVIII. Nothing in this Act contained shall affect the Landlord's Right of Hypothec.

Creditors may purchase.

CXIX. When any Estate is sold by virtue of this Act, it shall be lawful for any Creditor to purchase the same; but the Trustee, or Commissioners, or Adjudger, selling as aforesaid, shall not be entitled to purchase.

Payment of Dividends.

Realized Estate to be a Fund of Division.

CXX. The whole Estate, when reduced into Money, shall, after paying all necessary Charges and a Commission to the Trustee, be divided among those who were Creditors of the Bankrupt at the Date of the Sequestration, ranked according to their several Rights and Interests.

CXXI. The

CXXI. The Wages of Workmen in Manufactories of any Description shall be entitled to the same Privilege as the Wages of domestic Servants to the Extent of a Month's Wages prior to the Date of Sequestration being awarded, or where Sequestration is not awarded prior to the Concourse of Diligence for Distribution of the Estate of a Party being Notour Bankrupt. CLAUSE H. Workmen's Wages to be privileged.

CXXII. It shall be the Duty of the Trustee, immediately after the Examination of the Bankrupt, to notify, by Circular Letter transmitted through the Post Office to every Creditor mentioned in the State of Affairs which is hereby directed to be made up by the Bankrupt, the Period within which Claims should be lodged. Notice for lodging Claims.

CXXIII. To entitle any Creditor to the Payment of the First Dividend, he shall produce, as is herein-before directed, his Oath and Grounds of Debt at least Two Months before the Time fixed for Payment of the First Dividend, when such Time of Payment shall not have been accelerated, or One Month before the Time fixed for Payment of the First Dividend where such Time shall have been accelerated; and to entitle any Creditor to Payment of any of the subsequent Dividends, he shall produce, as aforesaid, his Oath and Grounds of Debt at least One Month before the Time fixed for Payment of the Dividend which he means to claim: Provided, that if a Creditor has not produced his Oath and Grounds of Debt in Time to share in the First Dividend, but has done so in Time to share in the Second Dividend, he shall be entitled, on Occasion of Payment of the Second Dividend, to receive out of the first of the Fund (if there be sufficient for that Purpose) a Sum equal to the Dividend he would have drawn if he had claimed in Time for the First Dividend; and the same Rule shall apply as to all subsequent Dividends. Creditor to produce Oath, &c. Two Months before Payment of First Dividend, and One Month before subsequent Dividends.

CXXIV. When any Creditor not resident within Great Britain or Ireland at the Date of the Deliverance awarding Sequestration, or at any Time within Four Months thereafter, shall lodge his Oath and Grounds of Debt Fourteen Days previous to any Time fixed for Payment of a Dividend, though not in Time to entitle such Creditor to participate in such Dividend, the Trustee shall make such Deduction from the divisible Fund as shall be equal to the Dividend which would have been payable to such Creditor had his Oath and Grounds of Debt been timeously lodged and his Claim been sustained; and the Sum so deducted shall form Part of the Fund for Division on the Occasion of Payment of the next Dividend. Creditors resident abroad may lodge Oath at later Periods.

CXXV. Imme-

Trustee to make up and exhibit to Commissioners State of Funds.

CXXV. Immediately on the Expiration of Four Months from the Date of the Deliverance actually awarding Sequestration, the Trustee shall procced to make up a State of the whole Estate of the Bankrupt, of the Funds recovered by him, and of the Property outstanding (specifying the Cause why it has not been recovered), and of his Intromissions, and generally of his Management; and within Fourteen Days after the Expiration of the said Four Months the Commissioners shall meet and examine such State, and ascertain whether the Trustee has lodged the Moneys recovered by him in Bank or not, and if he has failed to do so they shall debit him with a Sum at the Rate of Twenty Pounds on every Hundred Pounds not so lodged, and so after that Rate on any larger or smaller Sum, being not less than Fifty Pounds; and they shall audit his Accounts, and settle the Amount of his Commission, and authorize him to take Credit for such Commission in his Accounts with the Estate; and they shall certify, by a Writing under their Hands engrossed or copied in the Sederunt Book, the Balance due to or by the Trustee in his Account with the Estate as at the Expiration of the said Four Months; and they shall declare whether any and what Part of the net Produce of the Estate, after making a reasonable Deduction for future Expenses, shall be divided among the Creditors.

Commissioners to resolve as to Payment of Dividend: &c.

Trustee to examine and reject or admit Claims, and make up List of Creditors entitled to Payment of Dividend;

CXXVI. The Trustee shall also within the said Fourteen Days examine the Oaths and Grounds of Debt, and in Writing reject or admit them, or require further Evidence in support thereof, for which Purpose he may examine the Bankrupt, Creditor, or any other Party on Oath relative thereto; and in case he shall reject any Claim, he shall in his Deliverance state the Grounds of such Rejection; and he shall complete the List of the Creditors entitled to draw a Dividend, specifying the Amount of their Debts, with Interest thereon to the Date of the Sequestration, and distinguishing whether they are ordinary Creditors or preferable or contingent, and he shall make up a separate List of any Creditors whose Claims he has rejected in whole or in part.

And to publish and send Notices of Payment of Dividend

CXXVII. The Trustee shall give Notice in the Gazette published next after Expiration of the said Fourteen Days, of the Time and Place of the Payment of the Dividend, and also notify the same by Letters put into the Post Office on or before the First lawful Day after the said Fourteen Days, addressed to each Creditor, in which he shall specify the Amount of the Claim and proposed Dividend thereon, and when he has rejected any Claim he shall notify the same to the Claimant by Letter as aforesaid, which shall also contain a Copy of his Deliverance, and specify the Amount of the Claim, and the Dividend to which the rejected Claimant would be

be entitled if not rejected, or as near to the Amount thereof as Circumstances will permit; and a Certificate by the Trustee or an Execution by a Messenger or Sheriff Officer that such Letters have been put into the Post Office shall be sufficient Evidence thereof; and if any Creditor be dissatisfied with the Decision of the Trustee, he may appeal by a short written Note to the Lord Ordinary or to the Sheriff; but if no such Note be lodged with and marked by the Bill Chamber or Sheriff Clerk (as the Case may be) before the Expiration of Thirty Days from the Date of the Publication in the Gazette of the said Notice, the Decision of the Trustee shall be final and conclusive so far as regards that Dividend; and in case the Claim have been rejected, such Decision shall be without Prejudice to any new Claim being afterwards made in reference to future Dividends, but which new Claim shall not disturb prior Dividends.

Creditors may appeal within a limited Period.

CXXVIII. The Trustee shall, before the Expiration of Six Months from the Date of the Sequestration being awarded, make up a Scheme of Division of the Fund directed by the Commissioners to be divided, and apportion the same, according to their respective Rights, among those Creditors whose Claims have been sustained by him or by the Lord Ordinary or Sheriff, or who shall have appealed against his Decision, and which Scheme shall be patent to all concerned.

Trustee to make up a Scheme of Division.

CXXIX. On the First lawful Day after the Expiration of Six Months from the Date of Sequestration being awarded, and at the Place appointed, the Trustee shall pay to the Creditors the Dividends allotted to them respectively in Terms of the said Scheme; and he shall lodge the Dividends apportioned to those Claims which are under Appeal, but not finally determined, and the Dividends effeiring to contingent Creditors or other Claimants, not then entitled to uplift the same, in the Bank appointed by the Creditors, or failing such Appointment, in any Joint Stock Bank of Issue in Scotland in a separate Account, or if the Money be deposited in Bank, he shall transfer it to a separate Account in Name of himself and the Commissioners, to remain therein until the said Appeals be disposed of or the Dividends are payable.

Dividends to be paid, and those disputed or claimed by contingent Creditors to be lodged in Bank.

CXXX. On the Expiration of Eight Months from the Date of Sequestration being awarded, the Trustee shall again make up a State as herein-before provided, which he shall within Fourteen Days after the Expiration of the said Eight Months exhibit to the Commissioners, who shall meet and examine and audit the same, and perform the other Acts and Duties incumbent on them, in manner before specified, and direct a Second Dividend to be paid, if there shall be Funds to pay the same; and if the Commissioners shall direct

Second Dividend.

Trustee to make up State, &c., and Commissioners to resolve as in case of First Dividend.

direct a Dividend to be paid, the Trustee shall also make up Lists of the Creditors who are entitled and who are not entitled to Payment of the Dividend, and frame a Scheme of Division, and notify in the Gazette and by Letters, and any Creditor may appeal, all as is herein-before provided with respect to the First Dividend: Provided that no Appeal by a Creditor shall be competent unless the Note of Appeal be lodged within Ten Days of the Date of Notification in the Gazette.

Dividend to be paid.

CXXXI. On the First lawful Day after the Expiration of Nine Months from the Date of Sequestration being awarded, the Trustee shall make Payment of the Second Dividend to those Creditors who are entitled thereto, and shall lodge the Dividends disputed or not then payable, all as herein-before provided with respect to the First Dividend.

Subsequent Dividends.

Same Proceedings as in prior Dividends.

CXXXII. The like Procedure shall be followed out as to subsequent Dividends at similar Intervals of Time thereafter, in order that a Dividend may be made on the First lawful Day after the Expiration of every Three Months from the Day of Payment of the immediately preceding Dividend, until the whole Funds of the Bankrupt shall be divided.

Dividends may be accelerated in certain Cases.

CXXXIII. After the Second Dividend is made, a Majority of the Creditors, at any General Meeting called for the Purpose, may determine that future Dividends shall be made at shorter Intervals, and the Affairs of the Estate brought to a more speedy Close; and even before the Period assigned for the First Dividend as aforesaid, it shall be competent to Three Fourths in Number and Value of the Creditors present at the Meeting after the Bankrupt's Examination, or at any subsequent Meeting called for the Purpose, to direct the Trustee to apply to the Lord Ordinary or the Sheriff for Authority to make the First Dividend at an earlier Period than the Expiration of Six Months from the Date of the Sequestration, but not earlier than Four Months from such Date, if upon Cause shown it shall be found expedient so to do, and also to accelerate the Time for making the second and other Dividends; and when the Lord Ordinary or the Sheriff shall, upon such Application, accelerate the first or any subsequent Dividend, he shall also make the requisite Provision for the Acceleration of any other Matters which he may find it necessary to accelerate in consequence thereof.

Proceedings when Commissioners postpone the Dividend.

CXXXIV. If it shall appear to the Commissioners that a Dividend ought to be postponed, they may do so till the Recurrence of another stated Period for making a Dividend, and they shall authorize the Trustee to give a Notice to that Effect in the next Edinburgh Gazette:

Gazette: Provided that, notwithstanding such Postponement, the State of the Funds shall be made up, and the Accounts of the Trustee audited, at the Time and in the Manner before directed, and Circulars containing a Copy or Abstract of the said State shall be sent by Post to the Creditors, unless the Commissioners shall otherwise direct; and the Trustee shall examine the Oaths and Grounds of Debt, and dispose of them, and make up a Scheme of Division; and it shall be competent for any of the Creditors who is dissatisfied with his Judgment to lodge a Note of Appeal against it, before the Expiration of Thirty Days from the Date of Publication in the Gazette of the Payment of a Dividend in the Case of the Period for a First Dividend, or Ten Days in the Case of subsequent Dividends, as herein-before provided.

Where Estate is chiefly Land Periods of Payment may be altered.

CXXXV. In Cases where the sequestrated Estate consists chiefly of Land, and in any other Cases where it may be necessary, it shall be competent for the Court of Session, on a special Application by the Trustee and Commissioners, sanctioned by a Report from the Accountant in Bankruptcy, to authorize such Alteration in the Periods above mentioned for Payment of Dividends as shall be found most suitable to the Circumstances of the Case.

Winding up of Estate.

CXXXVI. If on the Lapse of Twelve Months from the Date of Sequestration it shall appear to the Trustee and Commissioners expedient to sell the Heritable or Moveable Estates not disposed of, and any Interest which the Creditors have in the outstanding Debts and consigned Dividends, they shall fix a Day for holding a Meeting of the Creditors to take the same into consideration; and the Trustee, besides advertising the same in the Gazette, shall, Fourteen Days before the Day appointed, send by Post to each Creditor claiming on the Estate a Notice of the Time and Place of the Meeting, with a Valuation of the Estates and a List of the outstanding Debts and of the consigned Dividends; and if Three Fourths of the Creditors at the Meeting shall decide in favour of a Sale, in whole or in Lots, the Trustee shall cause the Estates, Debts, and Dividends to be sold by Auction, after Notice thereof published at least One Month previous to the Sale, once in the Gazette, and in such other Newspapers as the Creditors at the Meeting shall appoint.

Discharge of Bankrupt.

1*st. On Composition.*

Offer of Composition may be made at the Meeting for Election of Trustee.

CXXXVII. At the Meeting for Election of Trustee the Bankrupt or his Friends, or, in case of his Decease, his Successors, and in case of a Company, One or more of the Partners thereof, may offer a Composition to the Creditors on the whole Debts, with Security for Payment of the same; and if the Majority of the Creditors in Number and Nine Tenths

Tenths in Value present at such Meeting shall resolve that the Offer and Security shall be entertained for Consideration, the Trustee shall forthwith advertise in the Gazette a Notice that an Offer of Composition has been so made and entertained, and that it will be decided upon at the Meeting to be held after the Examination of the Bankrupt, and shall specify the Hour, Day, and Place, and also transmit by Post Letters to each of the Creditors claiming on the Estate, or mentioned in the Bankrupt's State of Affairs, containing a Notice of such Resolution, and of the Day and Hour at which, and the Place where, such Meeting is to be held, and specifying the Offer and Security proposed, and giving an Abstract of the State of the Affairs and of the Valuation of the Estate, so far as the same can be done, to enable the Creditors to judge of such Offer and Security.

Offer, if entertained, to be disposed of at the Meeting after the Bankrupt's Examination.

CXXXVIII. If at the Meeting held after the Examination of the Bankrupt a Majority in Number and Nine Tenths in Value of the Creditors there assembled shall accept such Offer and Security, a Bond of Caution for Payment of the Composition, executed by the Bankrupt or his Successors, or the Partners of a Company (as the Case may be), and the proposed Cautioner, shall be forthwith lodged in the Hands of the Trustee; and the Trustee shall thereupon subscribe and transmit a Report of the Resolution of the Meeting, with the said Bond, to the Bill Chamber Clerk or Sheriff Clerk, in order that the Approval of the Lord Ordinary or Sheriff (whichever may be selected by the Trustee) may be obtained thereto; and if the Lord Ordinary or the Sheriff, after hearing any Objections by Creditors, shall find that the Offer, with the Security, has been duly made, and is reasonable, and has been assented to by a Majority in Number and Nine Tenths in Value of all the Creditors assembled at the said Meeting, he shall pronounce a Deliverance approving thereof: Provided that he shall hear any Objection by opposing Creditors; and if he shall refuse to sustain the Offer or reject the Vote of any Creditor, he shall specify the Grounds of Refusal or Rejection.

Lord Ordinary or Sheriff to approve.

Offer of Composition may also be made at Meeting after Bankrupt's Examination.

CXXXIX. In like Manner, at the Meeting held after the Examination of the Bankrupt, or at any subsequent Meeting called for the Purpose by the Trustee, with the Consent of the Commissioners, the Bankrupt, or his Friends, or in case of his Decease his Successors, or any of them, and in the Case of a Company One or more of the Partners thereof, may offer a Composition to the Creditors on the whole Debts, with Security for Payment of the same; and if a Majority in Number and Four Fifths in Value of the Creditors present shall resolve that the Offer and Security shall be entertained for Consideration, the Trustee shall call another Meeting to be held at a specified Hour on a specified Day, being not less than Twenty-one Days thereafter, and at a specified

specified Place, and shall, Seven Days at least before such other Meeting, send by Post Letters addressed to each of the Creditors who have claimed on the Estate or are mentioned in the Bankrupt's State of Affairs, which Letter shall contain a Notice of such Resolution, and of the Hour, Day, and Place, and Purpose of the Meeting, and specify the Offer and Security proposed, and give an Abstract of the State of the Affairs and Valuation of the Estate, so far as can be done, to enable the Creditors to judge of such Offer; and if at the Meeting so called a Majority in Number and Four Fifths in Value of the Creditors present shall accept the said Offer and Security, a Bond of Caution shall be lodged and a Report made, and a Deliverance pronounced, all in the same Manner and to the same Effect as is herein-before provided.

Bankrupt on making Declaration or Oath to obtain his Discharge.

CXL. On such Deliverance being pronounced, approving of the Composition in either of the Cases above specified, the Bankrupt, or if deceased his Successor or other Party offering the Composition, shall make a Declaration, or if required by the Trustee or any Creditor, an Oath, before the Lord Ordinary or the Sheriff (as the Case may be), that he has made a full and fair Surrender of his Estate, and has not granted or promised any Preference or Security, or made or promised any Payment, or entered into any secret or collusive Agreement or Transaction, to obtain the Concurrence of any Creditor to such Offer and Security; and if the Bankrupt shall be at the Time beyond the Jurisdiction of the Lord Ordinary or Sheriff, or is by a lawful Cause prevented from appearing before the Lord Ordinary or Sheriff, Commission may be granted to any fit Person to take such Declaration or Oath; and the Lord Ordinary or the Sheriff (as the Case may be), on being satisfied with such Oath or Declaration, shall pronounce a Deliverance discharging the Bankrupt of all Debts and Obligations contracted by him, or for which he was liable at the Date of the Sequestration, and shall declare the Sequestration to be at an end, and the Bankrupt re-invested in his Estate (reserving always the Claims of the Creditors for the said Composition against him and the Cautioner); and the Bond of Caution shall be recorded in the Books of the Court of Session, or, when such Deliverance is pronounced by the Sheriff, in the Books of the Sheriff Court; and an Extract of such Deliverance, signed by the Clerk of the Bill Chamber, or the Sheriff Clerk, shall forthwith be transmitted to the Accountant in Bankruptcy, who shall preserve the same, with the Copy of the Proceedings in the Sequestration transmitted to him, as herein provided; and the Clerk of the Bill Chamber or the Sheriff Clerk shall also transmit an Abbreviate of such Deliverance to the Keeper of the Register of Inhibitions, who shall enter the same in the said Register; and

such Deliverance of the Lord Ordinary or of the Sheriff shall operate as a complete Discharge and Acquittance to the Bankrupt in Terms thereof, and shall receive Effect within Great Britain and Ireland and Her Majesty's other Dominions, and an Entry thereof shall be made by the Accountant in Bankruptcy in the Register of Sequestrations.

Trustee's Accounts to be audited before the Composition be approved of.

CXLI. Before the Lord Ordinary or the Sheriff shall pronounce the Deliverance approving of the Composition, the Commissioners shall audit the Accounts of the Trustee, and ascertain the Balance due to or by him, and fix the Remuneration for his Trouble, subject to the Review of the Lord Ordinary or the Sheriff, if complained of by the Trustee, the Bankrupt, or any of the Creditors; and the Expense attending the Sequestration and such Remuneration shall be paid or provided for to the Satisfaction of the Trustee and Commissioners before such Deliverance is pronounced.

Sequestration to go on, notwithstanding Offer of Composition.

CXLII. Notwithstanding such Offer of Composition and Proceeding consequent thereon the Sequestration shall continue, and the Trustee shall proceed in the Execution of his Duty as if no such Offer had been made, until the Deliverance by the Lord Ordinary or the Sheriff be pronounced, when the Sequestration shall cease and be at an end, and the Trustee be exonered and discharged: Provided nevertheless, that the Trustee and his Cautioner shall be liable, on Petition to the Lord Ordinary or Sheriff by the Bankrupt or his Cautioner for the Composition, to account for his Intromissions and other Acts as Trustee.

Bankrupt and Cautioner not to be entitled to object to certain Debts.

CXLIII. Neither the Bankrupt, nor his Successor offering the Composition, nor the Cautioner for the Composition, shall be entitled to object to any Debt which the Bankrupt has given up in the State of his Affairs as due by him, or admitted without Question to be reckoned in the Acceptance of the Offer of Composition, nor to object to any Security held by any Creditor, unless in the Offer of Composition such Debt or Security shall be stated as objected to, and Notice in Writing given to the Creditor in right thereof.

Claims against Cautioner limited in certain Cases to two Years

CXLIV. No Person who has not produced an Oath as a Creditor before the Date of the Deliverance approving of the Composition, shall be entitled to make any Demand against the Cautioner after the Space of Two Years from the Date of such Deliverance, reserving to such Creditor his Claim for the Composition against the Bankrupt and his Estate.

CXLV. If

If Offer of Composition rejected, no other to be entertained, unless Nine Tenths of Creditors ranked shall agree.

CXLV. If an Offer of Composition have been made and rejected, or have become ineffectual, no other Offer of Composition shall be entertained unless Nine Tenths in Number and Value of all the Creditors ranked on the Estate shall assent in Writing to such Offer, which Offer shall state the Amount of Composition and the Terms of Payment, and be subscribed by the Cautioner proposed, in which Case a Meeting shall be called in manner before directed by the Trustee for finally disposing of the same; and if at the Meeting so called a Majority in Number and Nine Tenths in Value of the Creditors present shall accept such Offer and Security, and the same shall be assented to by Nine Tenths in Value of all the Creditors who have produced Oaths as aforesaid, a Bond of Caution shall be lodged and a Report made, and Deliverances pronounced, and the other Proceedings shall take place and have effect in the same Manner as is herein-before provided for other Offers of Composition.

2d. Without Composition.

Proceedings for this Purpose.

May be discharged with Consent of Creditors.

CXLVI. The Bankrupt may at any Time after the Meeting held after his Examination petition the Lord Ordinary or the Sheriff to be finally discharged of all Debts contracted by him before the Date of the Sequestration, provided that every Creditor who has produced his Oath as aforesaid shall concur in the Petition; and the Bankrupt may also present such Petition on the Expiration of Six Months from the Date of the Sequestration, provided a Majority in Number and Four Fifths in Value of the Creditors who have produced Oaths concur in the Petition, and the Bankrupt may also present such Petition on the Expiration of Twelve Months from the Date of the Sequestration, provided a Majority in Number and Two Thirds in Value of the Creditors concur in the Petition; and the Bankrupt may also present such Petition on the Expiration of Eighteen Months from the Date of the Sequestration, provided a Majority in Number and Value concur in the Petition; and the Bankrupt may also present such Petition on the Expiration of Two Years from the Date of the Sequestration without any Consents of Creditors; and the Lord Ordinary or the Sheriff, as the Case may be, shall in each of the Cases aforesaid order the Petition to be intimated in the Gazette and to each Creditor; and if, at the Distance of not less than Twenty-one Days from the Publication of such Intimation, and on Evidence being produced of Concurrence as aforesaid, there be no Appearance to oppose the same, the Lord Ordinary, or the Sheriff, as the Case may be, shall pronounce a Deliverance finding the Bankrupt entitled to a Discharge; but if Appearance be made by any of the Creditors or by the Trustee, the Lord Ordinary or the Sheriff, as the Case may be, shall judge of any Objections against granting the Discharge, and shall either find the Bankrupt entitled to his Discharge, or refuse

After Two Years may be discharged without Consent.

the Discharge, or defer the Consideration of the same for such Period as he may think proper, and may annex such Conditions thereto as the Justice of the Case may require: Provided, that it shall not be competent for the Bankrupt to present a Petition for his Discharge, or to obtain any Consent of any Creditor to such Discharge, until the Trustee shall have prepared a Report with regard to the Conduct of the Bankrupt, and as to how far he has complied with the Provisions of this Act, and, in particular, whether the Bankrupt has made a fair Discovery and Surrender of his Estate, and whether he has attended the Diets of Examination, and whether he has been guilty of any Collusion, and whether his Bankruptcy has arisen from innocent Misfortunes or Losses in Business, or from culpable or undue Conduct; and such Report may be prepared by the Trustee, upon the Requisition of the Bankrupt, at any Time after the Bankrupt's Examination, but shall not be demandable from the Trustee till the Expiration of Five Months from the Date of the Sequestration; and such Report shall be produced in the Proceedings for the Bankrupt's Discharge, and shall be referred to by its Date, or by other direct Reference, in any Consent to his Discharge.

Bankrupt to make a Declaration or Oath before obtaining Discharge.

CXLVII. If the Bankrupt shall be found entitled to his Discharge he shall make a Declaration, or if required by the Trustee or any Creditor, an Oath, before the Lord Ordinary or Sheriff, that he has made a full and fair Surrender of his Estate, and has not granted or promised any Preference or Security, nor made or promised any Payment, nor entered into any secret or collusive Agreement or Transaction, to obtain the Concurrence of any Creditor to his Discharge; and if the Bankrupt shall be at the Time beyond the Jurisdiction of the Lord Ordinary or Sheriff, or is by lawful Cause prevented from coming before the Lord Ordinary or Sheriff, Commission may be granted to any fit Person to take such Declaration or Oath; and the Lord Ordinary or the Sheriff, as the Case may be, on being satisfied with such Declaration or Oath, shall pronounce a Deliverance discharging the Bankrupt of all Debts and Obligations contracted by him or for which he was liable at the Date of the Sequestration; and when the Deliverance discharging the Bankrupt is pronounced by the Lord Ordinary or Sheriff, an Extract thereof, signed by the Clerk of the Bills or the Sheriff Clerk, shall forthwith be transmitted to the Accountant in Bankruptcy, who shall preserve the same with the Copy of the Proceedings in the Sequestration transmitted to him, and another Extract thereof, signed as aforesaid, shall be transmitted to the Keeper of the Register of Inhibitions, who shall enter the same in the said Register; and such Deliverance by the Lord Ordinary or the Sheriff shall operate as a complete Discharge and Acquittance to the Bankrupt in

Terms

Terms thereof, and shall receive effect within Great Britain and Ireland and all Her Majesty's other Dominions; and an Entry thereof shall be made by the Accountant in Bankruptcy in the Register of Sequestrations.

Preferences and Collusions for procuring Discharge to be void.

Preferences, Payments, and collusive Agreements for Discharge to be void.

CXLVIII. All Preferences, Gratuities, Securities, Payments, or other Consideration not sanctioned by this Act, granted, made, or promised, and all secret or collusive Agreements and Transactions, for concurring in, facilitating, or obtaining the Bankrupt's Discharge, either on or without an Offer of Composition, and whether the Offer be accepted or not, or the Discharge granted or not, shall be null and void; and if during the Sequestration any Creditor shall have obtained any such Preference, Gratuity, Security, Payment, or other Consideration or Promise thereof, or entered into such secret or collusive Consideration or Agreement or Transaction, the Trustee shall be entitled to retain his Dividend, and he or any Creditor ranked on the Estate may present a Petition to the Lord Ordinary or to the Sheriff, praying that such Creditor shall be found to have forfeited his Debt, and be ordained to pay to the Trustee double the Amount of the Preference, Gratuity, Security, Payment, or other Consideration given, made, or promised, and if no Cause be shown to the contrary, Decree shall be pronounced accordingly; and the Sums which in such Case may be recovered shall, under Deduction of the Expenses of recovering the same, be distributed by the Trustee among the other Creditors under the Sequestration; and if the Sequestration shall have been closed, it shall be competent to any Creditor who shall not have received full Payment of his Debt to raise a Multiplepoinding in Name of the Person who has obtained such Preference, Gratuity, Security, Payment, or other Consideration or Promise as aforesaid, and on the Value of the Preference, Gratuity, or Security, or Amount of the Sum paid or Consideration obtained, being ascertained, double such Value or Amount, together with the Amount of the Debt of the colluding Creditor, shall be ordered to be consigned by him, and shall be divided among the Creditors who were ranked or were entitled to be ranked in the Sequestration, and have not received full Payment of their Debts, and who shall lodge Claims in such Multiplepoinding, according to their respective Rights and Interests: and such Multiplepoinding shall be executed in Terms of Law against the colluding Creditor, and Notice thereof at the same Time be inserted in the Gazette; and in the event of there being any Surplus, after paying the full Debts of the Creditors, and defraying the Expenses of the Sequestration or other Proceeding, the same shall be paid into the Account of Unclaimed Dividends, as herein-after provided.

Bankrupt to forfeit Privileges, if participant in giving such Preferences, &c.

CXLIX. If the Bankrupt shall have been personally concerned in or cognizant of the granting, giving, or promising any Preference, Gratuity, Security, Payment, or other Consideration, or in any secret or collusive Agreement or Transaction as aforesaid, he shall forfeit all Right to a Discharge and all Benefits under this Act, and such Discharge, if granted, either on or without an Offer of Composition, shall be annulled; and the Trustee or any One or more of the Creditors may apply by Petition to the Lord Ordinary to have such Discharge annulled accordingly.

Trustee's Discharge.

Proceedings for this Purpose.

CL. After a final Division of the Funds, the Trustee shall call a Meeting of the Creditors, by an Advertisement in the Gazette, to be held not sooner than Twenty-one Days after such Publication, specifying the Time, Place, and Purpose of holding the Meeting, and by Letters addressed by Post to every Creditor who has produced an Oath as aforesaid, to consider as to an Application for his Discharge, and at such Meeting he shall lay before the Creditors the Sederunt Book and Accounts, with a List of unclaimed Dividends, and the Creditors may then declare their Opinion of his Conduct as Trustee, and he may thereafter apply to the Lord Ordinary or the Sheriff, who, on advising the Petition, with the Minutes of the Meeting, and hearing any Creditor, may pronounce or refuse Decree of Exoneration and Discharge; and an Extract of such Decree, signed by the Clerk of the Bill Chamber or the Sheriff Clerk, shall forthwith be transmitted to the Accountant in Bankruptcy, and shall be entered in the Register of Sequestrations, and the Bond of Caution for the Trustee delivered up.

Trustees to lodge unclaimed Dividends, &c. in Bank.

CLI. Every Trustee in any Sequestration awarded under this Act shall, before his Discharge, transmit the Sederunt Book to the Accountant in Bankruptcy, who shall thereupon direct the Trustee to deposit the unclaimed Dividends in the same Bank in which Money received by him was lodged under the Provisions of this Act; and the Trustee shall forthwith transfer the whole Dividends not then claimed to such Bank, to be there entered in an Account to be kept under the Title of "Account of Unclaimed Dividends;" and a Book or Books shall be kept in the Office of the Accountant in Bankruptcy, to be entitled "Register of Unclaimed Dividends," containing a List, with the Names arranged alphabetically, of all the Creditors entitled to such unclaimed Dividends, and in what Bank deposited, which shall be patent to all Persons; and after the Discharge of the Trustee it shall be competent to any Person, producing Evidence of his Right, to apply to the Lord Ordinary for Authority to receive

Claimants showing Right to apply to

such

such Dividends, and on the Lord Ordinary being satisfied of the Claimant's Right, a Warrant shall be granted for Payment of such Dividend, whereof the Accountant in Bankruptcy shall make an Entry in the said Register, and upon such Warrant the Bank shall pay the same: Provided that the Claimant shall not be entitled to Interest on such Dividend, but such Interest shall go into a general Fund, of which an Account shall be kept by such Bank, to be called "The Interest Account of Unclaimed Dividends," and which Fund shall be applied in such Manner as shall be regulated by any Act of Parliament; and if at the End of Twenty-five Years from the Date of closing any Sequestration there shall remain in the Bank any unclaimed Dividends belonging to the Estate, the same shall be vested in Government Stock, and the Dividends thereon shall be regularly accumulated for the Purpose of forming a Fund for defraying the Expense of Proceedings in Bankruptcy or otherwise, as Parliament shall hereafter direct; and such Bank shall once yearly at least balance the said Accounts, and accumulate the Interest with the Principal Sum, so that both shall thereafter bear Interest as Principal; and if any such Bank fail to do so, such Bank shall be liable to account as if such Money had been so accumulated.

Lord Ordinary for Authority to receive Dividends.

Interest Account of unclaimed Dividends.

CLII. All Accounts for Law Business incurred by the Trustee shall before Payment thereof by the Trustee be submitted for Taxation to the Auditor of the Court of Session, or to the Auditor of the Sheriff Court of the County in which the Sequestration was carried on, as may be directed by a General Meeting of the Creditors.

Law Accounts to be taxed.

CLIII. Any Surplus of the Bankrupt's Estate and Effects that may remain after Payment of his Debts, with Interest, and the Charges of recovering and distributing the Estate, shall be paid to the Bankrupt, or to his Successors or Assignees.

Surplus to be paid to Bankrupt.

Accountant in Bankruptcy.

CLIV. It shall be lawful for Her Majesty, and Her Heirs and Successors, to appoint a Person versant in Law and Accounts, to be called "The Accountant in Bankruptcy," for performing the Duties of that Office, with such yearly Salary, not exceeding per Annum, payable quarterly out of , and with such Accommodation of Office Rooms, or reasonable Allowance for the same out of the said Fund, as may be fixed by the Commissioners of Her Majesty's Treasury, and the Accountant shall be allowed Clerks; whom he shall appoint, with a

Appointment of Accountant in Bankruptcy.

Salary not exceeding yearly, which Salaries shall be paid quarterly out of ; and the Accountant shall hold no other official Situation in the Court, and shall not, directly or indirectly, by himself or any Partner, be engaged in Practice, and he shall not, directly or indirectly, have any Management of or Intromission with any Money of any Bankrupt Estate under Charge of the Court of Session or of any Sheriff Court, or constituting the Fund in any Process of Sequestration.

Accountant to keep Register of Sequestrations.

CLV. The Accountant shall keep a Book, entitled "The Register of Sequestrations," in the general Form of Schedule (G.) hereunto annexed, but with such additional Heads as he may find necessary, which Book shall be patent to all concerned, and he shall regularly enter therein the Division of the Court to which any Sequestration awarded in the Court of Session is appropriated, or the Sheriff awarding Sequestration and the Sheriff to whom the Sequestration is remitted, the Date of the First Deliverance on every Petition of Sequestration, whether in the Court of Session or Sheriff Court, the Name and Designation of the Debtor, the Place and County of his Residence, Dwelling House, or Place of Business, and the Name and Designation of the petitioning or concurring Creditor, the Date of awarding or recalling Sequestration, the Date of Transmission to the Sheriff (if it has not been awarded by him), the Time and Place appointed for the Election of the Trustee and Commissioners, the Name and Designation of the Trustee and Commissioners, and the Time for lodging Claims in order to obtain Payment of the First Dividend, the Bankrupt's Discharge on Composition or otherwise, and the Trustee's Discharge, with such other Particulars as he may think necessary, for which Purpose the Clerks of the Bill Chamber and the Sheriff Clerk of each County shall transmit forthwith to the Accountant a certified Copy of the First Deliverance in Sequestrations awarded in the Court of Session and Sheriff Courts respectively, and the Sheriff Clerk of each County shall at the End of every Period of Three Months transmit to the Accountant regularly a certified Copy of the Proceedings in each Sequestration during the said Period.

Trustee to make an annual Return to Sheriff Clerk, and the Sheriff Clerk to the Accountant in Bankruptcy.

CLVI. Each Trustee shall, within Fourteen Days after the Thirty-first Day of October in each Year, or on the first lawful Day after Expiry of the said Fourteen Days, deliver, free of Expense, to the Sheriff Clerk of the County, a Return in the Form of the Schedule marked (H.) hereunto annexed, of every Sequestration in which he is Trustee; and the Sheriff Clerk shall, within Fourteen Days thereafter, transmit, in the Form of the said Schedule, to the Accountant, a Return of all the Sequestrations depending in the

the Sheriffdom whereof he is Clerk; and the Accountant in Bankruptcy shall cause the Returns so made to be regularly bound up and preserved, according to the alphabetical Order of Counties, in a Volume to be kept at all Times in his Office, with an Index thereto, framed by him, and which Volume shall be patent to all concerned; and any Trustee who shall fail to make such Return shall be removable from his Office at the Instance of any One Creditor, or of the Accountant, or subject to such Censure as the Lord Ordinary may think suitable, and be found liable in Expenses.

Accountant in Bankruptcy to superintend Trustee and Commissioners;

CLVII. The Accountant shall superintend generally the Conduct of all Trustees and Commissioners in Sequestrations, and in the event of their not faithfully performing their Duties, and duly observing all Rules and Regulations imposed on them by Statute, Act of Sederunt, or otherwise relative to the Performance of those Duties, he shall report thereon to the Lord Ordinary in Time of Vacation, or during Time of Session to either Division of the Court of Session, who, after hearing such Trustees or Commissioners thereon, and investigating the whole Matter, shall decide, and shall have Power to censure such Trustees or Commissioners, or remove them from their Office, or otherwise to deal with them as the Justice of the Case may require.

and Returns.

CLVIII. The Accountant shall superintend the annual Returns required by this Act from Trustees, and frame an annual Report to the Court of Session showing the State of each depending Sequestration, which Report may be published in the Gazette or otherwise as the Court shall direct; and the Accountant shall have Power, on the Application of One or more of the Creditors, or of his own Accord, to require Exhibition of the Sederunt Book in any Sequestration, and of any Vouchers or Documents which he may think necessary, and to direct that a Meeting of the Creditors shall be called to take any Measures under Consideration which he may judge requisite for the Preservation or due Management of the Estate or more speedy realizing and Division of the Funds or winding up of the Estate.

Annual State to be authenticated by him.

CLIX. In every Sequestration there shall be prepared annually by the Trustee, and authenticated by the Accountant, a short Statement of the Proceedings in the Sequestration during the preceding Year, setting forth whether there has been a Dividend, and if there has been none explaining the Reason; which Statement shall be inserted annually in the Gazette; and such Statement, and the said Publication thereof, shall not be dispensed with unless by

Leave of the Lord Ordinary, given on Application by the Accountant, and on Cause shown.

To report Disobedience.

CLX. The Accountant shall at all Times, when requisite, report to the Lord Ordinary or either Division of the Court any Disobedience by the Trustee or Commissioners of any Requisition or Order by him, and generally any Matter which he may deem it necessary for the due Discharge of his Office to bring before the Lord Ordinary or the Court, and it shall be competent for the Lord Ordinary or the Court to deal summarily with the Matter reported, as accords of Law.

To give information to Lord Advocate.

CLXI. If the Accountant shall possess Information that shall lead him, on reasonable Grounds, to suspect Malversation or Misconduct on the Part of the Trustee or Commissioners, such as may infer Punishment, he shall be entitled to give Information to Her Majesty's Advocate, who shall direct such Inquiry and take such Proceedings therein as he shall think proper.

Judicial Power for winding up the Estates of Parties deceased.

Application for Judicial Factor on Estates of Persons deceased.

CLXII. It shall be competent to One or more Creditors of Parties deceased to the Amount of One hundred Pounds, or to Persons having an Interest in the Succession of such Parties, in the event of the Deceased having left no Settlement appointing Trustees or other Parties having Power to manage his Estate or Part thereof, or in the event of such Parties not accepting or acting, to apply by summary Petition to either Division of the Court for the Appointment of a Judicial Factor, whom the Court, after due Intimation of the Petition to all Creditors of the Deceased, and other Persons interested in his Estate, and Service upon them, so far as they can be discovered, and after hearing Parties, may appoint, subject to such Conditions as to Caution, and such other Conditions as the Court may provide by Act of Sederunt; and such Factor shall manage the Estate, recover Debts due to it, realize the Moveable Effects by Public or Private Sale, as may be most expedient, dispose of the Heritable Estate by Public Sale or Private Bargain, according to such Directions as the Court, on Report of the Accountant, may give, and shall apply the free Proceeds, after defraying all Expenses in Payment of the Claims of Creditors according to their several Rights and Preferences, conformably to a State of Funds and Scheme of Division to be prepared by him, and considered and approved of by the Court, on a Report by the Accountant; and thereafter the Factor shall account for the Residue, if any, after Payment of Debts and Expenses, to the Parties having a Right to the Deceased's Succession: Provided that the Accountant shall regularly examine

examine the Proceedings, Intromissions, and Accounts of such Factor, and report to the Court thereon, from Time to Time, as he may deem expedient, and shall generally exercise the like Powers and discharge the same Duties with regard to him as he is empowered and required to exercise and discharge with regard to a Trustee under a Sequestration, but subject always to the Control of the Lord Ordinary or the Court.

CLXIII. The Court shall regulate by Act of Sederunt the Caution to be found by such Factor, the Mode in which he shall proceed in realizing and dividing the Funds, and otherwise in the Discharge of his Duties, and any other Matter which they may deem necessary.

Clause I. Judicial Factor's Duties to be regulated by Act of Sederunt.

CLXIV. If a Party deceased has left a Settlement, appointing Trustees or other Parties having Power to manage his Estate as aforesaid, it shall nevertheless be competent for the Trustees under the Settlement, with or without Concurrence of the Creditors of the Deceased and of the Persons interested in his Succession, to apply in like Manner to the Court, and obtain from them an Order on the Accountant to superintend the Administration of the Estate, in which Case he shall exercise the like Powers and discharge the like Duties, under the Control of the Lord Ordinary or the Court, which have been provided for in the preceding Sections.

Application of Trustees on Estate of deceased Parties for Supervision of Accountant in Bankruptcy

Process of Cessio Bonorum.

CLXV. Any Trustee or Trustees to whom the Pursuer of a Cessio shall grant a Conveyance of his Estate and Effects for Behoof of his Creditors shall act under the Supervision and Control of the Accountant in like Manner as the Trustee under a Sequestration, and the Accountant shall exercise the like Powers and perform the like Duties as in that Case, but always under the Directions of the Court, for which Purpose it shall be the Duty of every such Trustee, or, failing him, of the Clerk to any such Process in the Court of Session, or of the Clerk of the Sheriff Court in which the Cessio has been granted, to transmit a Note of the same, and Residence of such Trustee, to the Accountant, and the Accountant shall prepare a List thereof, and shall require from such Trustees, at the End of each Period of Three Months, Accounts of their Intromissions, and report on the same to either Division of the Court, and he shall also bring before the Court any Instance of Malversation or Irregularity in such Trustees, whereupon the Court shall be entitled to inflict on them such Censure or Punishment as they may deem just.

Cessio Bonorum.

Judicial Proceedings.

Appeals, &c. against Resolutions of Creditors and Deliverances of Trustee to the Lord Ordinary or Sheriff.

CLXVI. It shall be competent to appeal against the Resolutions of the Creditors at Meetings either to the Lord Ordinary or the Sheriff, provided a Note of Appeal shall be lodged with and marked by One of the Clerks of the Bill Chamber within Fourteen Days after the Date of the Meeting at which the Resolution objected to has been passed, or (as the Case may be) in the Hands of and marked by the Sheriff Clerk within the like Period; and it shall in like Manner be competent to appeal against any Deliverance of the Trustee to the Lord Ordinary or the Sheriff, provided the Note of Appeal shall be lodged and marked as aforesaid within Thirty Days from the Date of the Deliverance (except in the Case of Dividends as hereinbefore specified); and where any such Appeal is made, or where any Petition or Complaint is presented against the Trustee or Commissioners, or against any of the Creditors, the Lord Ordinary or the Sheriff (as the Case may be) shall appoint a Copy thereof, and of his Deliverance thereon, to be served on the Respondent, or his Mandatory or known Agent, and appoint the Respondent to appear at a specified Diet within such Period as may be reasonable; and the Lord Ordinary or the Sheriff (as the Case may be) shall at such Diet hear Parties vivâ voce, and the Lord Ordinary shall proceed to dispose of the Case, with or without a Record, as he shall consider best; and the Sheriff, without a Record, may decide, provided he shall specify the Facts, and assign the Grounds of his Judgment; but if he shall see Cause he may order Minutes to be lodged by the Parties, containing their Averments in Fact and Pleas in Law, without Argument, and may hold the same as a closed Record, and proceed in a summary Way, and in pronouncing his Judgment he shall assign his Reasons; and it shall be competent to the Lord Ordinary or the Sheriff, where any Resolution of a Meeting of the Creditors is appealed against, to order a new Meeting to be held, in order to reconsider the Resolution.

Review of Sheriff's Judgments.

CLXVII. It shall be competent to bring under the Review of the Inner House of the Court of Session, or before the Lord Ordinary in Time of Vacation, any Deliverance of the Sheriff, after the Sequestration has been awarded (except where the same is declared not to be subject to Review), provided a Note of Appeal be lodged with and marked by the Sheriff Clerk, within Eight Days from the Date of such Deliverance, failing which the same shall be final; and such Note, together with the Process, shall forthwith be transmitted by the Sheriff Clerk to the Clerk of the Bill Chamber; and the Lord Ordinary's Decision shall, when not expressly made final by this Act, be subject to Review of the Inner House; and it shall be competent to

to the Inner House or the Lord Ordinary to remit to the Sheriff, with Instructions.

Review of Lord Ordinary's Judgments.

CLXVIII. Where any Judgment of the Lord Ordinary is to be brought under Review of the Inner House, the same shall be done by a Reclaiming Note in common Form presented within Fourteen Days from the Date of the Judgment; and such Reclaiming Note shall be disposed of by the Inner House as speedily as the Forms of Court will allow.

Regulation by Sheriff of Interim Possession.

CLXIX. During the Dependence of Appeals or Petitions and Complaints it shall be competent to the Sheriff to give such Orders as may be necessary to regulate the Interim Possession and Administration of the Estate.

Appeals to House of Lords.

CLXX. If any Appeal shall be made to the House of Lords, the Sequestration shall, in all respects not inconsistent with or injurious to the Interests which may be affected by the Appeal, proceed without Interruption, and the Lord Ordinary shall make such Orders as may be necessary to regulate the Interim Possession and Management of the Estate, and which Orders shall not be subject to Appeal.

Deliverances, Extracts, and Copies shall form Evidence.

CLXXI. All Deliverances under this Act purporting to be signed by the Lord Ordinary or by any of the Judges of the Court of Session, as well as all Extracts or Copies thereof or from the Books of the Court of Session purporting to be signed or certified by any Clerk of Court, or Extracts from or Copies of Registers purporting to be made by the Keeper thereof, or Extractor, shall be judicially noticed by all Courts and Judges in England, Ireland, and Her Majesty's other Dominions, and shall be received as primâ facie Evidence, without the Necessity of proving their Authenticity or Correctness, or the Signatures appended, or the official Character of the Persons signing, and shall be sufficient Warrants for all Diligence and Execution by Law competent.

Deliverances, &c. may be printed.

Service of Citations.

CLXXII. All Deliverances, Bonds, Schedules, and Executions under this Act may be either printed or in Writing, or partly both; and Service or Citation may be made by a competent Officer without Witnesses.

Trustee and Commissioners may compound and transact.

CLXXIII. The Trustee may, with Consent of the Commissioners, compound and transact or refer to Arbitration any Questions which may arise in the Course of the Sequestration regarding the Estate, or any Demand or Claim made thereon, and the Compromise, Trans-

action, or Decree Arbitral shall be binding on the Creditors and the Bankrupt.

Agents in Court of Session may be Agents in Causes under this Act before Sheriff.

CLXXIV. It shall be lawful for all Agents duly qualified to practise before the Court of Session to practise in all Sheriff Courts, in so far as relates to any of the Proceedings authorized by this Act to be carried on before the Sheriff: Provided that they shall not be entitled to Payment of any higher Fees than those legally exigible in such Courts.

Miscellaneous Provisions.

Punishment of wilful Falsehood.

CLXXV. If any Person shall be guilty of wilful Falsehood in any Oath made in pursuance of this Act, he shall be liable to a Prosecution, either at the Instance of Her Majesty's Advocate, or at the Instance of the Trustee, with the Concurrence of Her Majesty's Advocate: Provided that, in the latter Case, the Prosecution shall be authorized by a Majority of the Creditors present at a Meeting to be called for the Purpose; and such Person shall, on Conviction, besides the awarded Punishment, forfeit to the Trustee, for Behoof of the Creditors, his whole Right, Claim, and Interest in or upon the Sequestrated Estate, and the same shall be distributed, either under the Sequestration, or, if it be closed, under a Process of Multiplepoinding, as is herein-before provided.

Trustee may be authorized to receive and open Post Letters.

CLXXVI. The Lord Ordinary or Sheriff, on Cause shown, may order, that for a Period not exceeding Three Months from the Date of the Order all Letters addressed to the Bankrupt shall be delivered by the Postmaster General, or the Officers acting under him, to the Sheriff Clerk or Trustee, to be opened in Presence of the Sheriff, after written Notice to the Bankrupt to attend, if within Scotland; and in case the Letters shall relate in whole or in part to the Estate, they shall be placed in such Custody as the Sheriff may direct; and the Lord Ordinary or Sheriff may, on Cause shown, renew such Order for a like Period as often as shall be necessary.

Fees payable.

CLXXVII. The Fees which are set forth in the Schedule marked (I.) hereunto annexed shall be payable on the Proceedings specified, and shall form a Fund, which shall be applied in the Payment of the Salaries and Expenses of Officers in the Court in which the same are payable, and any Surplus which shall at any Time arise shall be paid as the Commissioners of Her Majesty's Treasury shall direct.

CLXXVIII. The

CLXXVIII. The Bill Chamber Clerks are hereby prohibited from charging or receiving any Fees, except for Copies of Interlocutors or other Papers ordered or required, for which an Allowance shall be paid at the Rate of Sixpence for each Page of One hundred and fifty Words, without any farther Charge for Stationery. Fees payable to the Bill Chamber Clerks.

CLXXIX. From and after the Commencement of this Act, the Keeper of the Gazette shall on each Day of Publication furnish a Copy thereof to the Keeper of Edictal Citations and to the Bill Chamber Clerks, and to the Accountant in Bankruptcy, who shall keep the same regularly filed, and make the said Gazettes on all Occasions patent to the Lieges at Office Hours, on Payment of a Fee of Sixpence and no more. Gazette Keeper to furnish Copies of Gazette.

CLXXX. No Advertisement inserted in the London Gazette or in the Edinburgh Gazette, by virtue of this Act, or the Act passed in the Sixth and Seventh Year of the Reign of His late Majesty King William the Fourth, Chapter Fifty-six, shall be charged by the Keepers of the said Gazettes for Publication therein at a higher Price, nor shall a higher Price be paid for such Publication, than the Sums specified in the Schedule (K.) hereunto annexed. Charges on Advertisements under this Act.

CLXXXI. From and after the Commencement of this Act, all Conveyances, Assignations, Instruments, Discharges, Writings, or Deeds relating solely to the Estate belonging to any Bankrupt against whom Sequestration has been or may be awarded, either under this or any former Act, and which Estate, after the Execution of such Conveyances, Assignations, Instruments, Discharges, Writings, or Deeds, shall be and remain the Property of such Bankrupt, for the Benefit of his Creditors, or the Trustees appointed or chosen under or by virtue of such Sequestration, and all Discharges to such Bankrupt, and all Deeds, Assignations, Instruments, or Writings for reinvesting such Bankrupt in the Estate, and all Powers of Attorney, Commissions, Factories, Oaths, Affidavits, Articles of Roup or Sale, Submissions, Decrees Arbitral, and all other Instruments and Writings whatsoever, relating solely to the Estate of such Bankrupt, and all other Deeds or Writings forming a Part of the Proceedings ordered under such Sequestration, shall be exempt from all Stamp Duties or other Government Duty. Conveyances, Deeds, &c. relating to Estates of Bankrupts, Notices, not liable to Stamp or other Duties.

CLXXXII. It shall be lawful for the Judges of the Court of Session, either during Session or Vacation, by an Act or Acts of Sederunt, from Time to Time to apportion the Duties to be performed by the Acts of Sederunt may be made.

Officers in the Bill Chamber, or in the said Court, or in the Sheriff Courts, and to regulate Procedure in relation to this Act, in so far as consistent therewith, and to establish a Table of Fees to be allowed to Agents, both in the Court of Session and Sheriff Courts, for conducting the Proceedings, and to amend or alter such Act or Acts from Time to Time ; and such Act or Acts of Sederunt shall within One Month after the making thereof be transmitted by the Lord President of the Court of Session to One of Her Majesty's Principal Secretaries of State, that the same may be laid before both Houses of Parliament.

SCHE-

SCHEDULES referred to in this Act.

SCHEDULE (A.)

No. 1.

Abbreviate for the Register of Inhibitions.

PETITION for Sequestration of *A. B.* [*Name and Designation*].
Date of First Deliverance Day of .
(Signed) *C. D.* [*If an Agent, state so.*]

No. 2.

Certificate by the Keeper.

THIS Petition was presented by [*or* received by Post from] [*name and design the Presenter or Party transmitting by Post*] and recorded on [*Date*] in the Register of Inhibitions at Edinburgh.
(Signed) *E. F.*, Keeper.

No. 3.

Abbreviate.

PETITION for transferring, in Terms of the "Bankruptcy (Scotland) Act, 1855," from *A. B.* [*Name and Designation*], as Heir of *C. D.* [*Name and Designation*], the Estates of *C. D.*, Date of Deliverance Day of
(Signed) *G. H.* [*If an Agent, state so.*]

SCHEDULE (B.)

Notice to the Gazettes.

THE Estates of *A. B.* [*Name and Designation*] were sequestrated on [*Date, Month, and Year*] by the [Court of Session *or* Sheriff of].

The First Deliverance is dated the [*Date*].

The Meeting to elect the Trustee and Commissioners is to be held at [*Hour*] o'Clock on the [*Day of the Week*] the [*Date, Month, and Year*],

Year], within [*specify particular Place*] in [*Town*]. A Composition may be offered at this latter Meeting; and to entitle Creditors to the First Dividend their Oaths and Grounds of Debt must be lodged on or before the [*insert Date*].

All future Advertisements relating to this Sequestration will be published in the Edinburgh Gazette alone.

(Signed) *P.Q.*, Agent [*specify Place of Business*].

SCHEDULE (C.)

Form of Bond of Caution for Trustee.

I *A.B.* [*Name and Designation*], having been appointed Trustee on the sequestrated Estate of *C.D.* [*Name and Designation*], and I *E.F.* [*Designation*] as Cautioner, Surety, and full Debtor for and with the said *A.B.*, hereby bind and oblige ourselves, conjunctly and severally, our Heirs and Executors, That I the said *A.B.* shall faithfully discharge all the Duties which by Law attach to the said Office of Trustee, and fully account for my whole Intromissions with the said Estate, and make Payment of any Balance due by me to the Creditors on the said Estate, or Trustee elected by them to succeed me; declaring that this Bond shall not be in any way affected, nor shall I the said *E.F.* be liberated, by any Omission, Negligence, or Want of Diligence on the Part of the Creditors or Commissioners on the said Estate. [*In case the Caution has been limited by the Creditors, the following Clause will be here inserted:* And declaring further, that this Bond, so far as concerns me the said *E.F.*, shall not bind me or my foresaids to a greater Extent than the Sum of [*here insert Sum in Writing*], to which my Obligation before written is hereby limited.] In witness whereof this Bond (*so far as not printed*), written and filled up by [*here shall be inserted in Writing a testing Clause in legal Form*].

(Signed) *A.B.*
E.F.

O.T., Witness.
L.F., Witness.

SCHE-

SCHEDULE (D.)

Act and Warrant of Confirmation of the Trustee.

[*Place and Date.*]

THE Sheriff of the County of [*insert County*] has confirmed and hereby confirms *A.B.* [*Name and Designation*] Trustee on the sequestrated Estate of *C.D.* [*Name and Designation*]; and the whole of the Estates and Effects, Heritable and Moveable, and Real and Personal, wherever situated, of the said *C.D.*, are transferred and belong to *A.B.* as Trustee for Behoof of the Creditors of the said *C.D.*, in Terms of the Bankruptcy (Scotland) Act, 1855; and the said *A.B.* has, as Trustee aforesaid, in Terms of the said Act, full Right and Power to sue for and recover all Estates, Effects, Debts, and Money belonging or due to the said *C.D.*

(Signed) *C.D.*, Sheriff Clerk.

SCHEDULE (E.)

No. 1.

Abbreviate for the Register of Adjudications.

THE whole Estates and Effects, Heritable and Moveable, and Real and Personal, wherever situated, of *A.B.* [*Name and Designation*], are transferred and belong to *E.F.* [*Name and Designation*], as Trustee on his sequestrated Estate, conform to Act and Warrant of Confirmation dated the Day of , issued in Terms of the Bankruptcy (Scotland) Act, 1855.

[*Signed by the Trustee or his Agent.*]

No. 2.

Certificate by the Keeper.

THIS Abbreviate was presented by [*Name and Designation*] and recorded on [*Date*] in the Register of Abbreviates of Adjudications.

(Signed) *E.F.*, Keeper.

No. 3.

Abbreviate of Adjudication.

The Estates vested in *A.B.* [*Name and Designation*] as Heir of *C.D.* [*Name and Designation*] are transferred and belong to *E.F.* [*Name and Designation*], as Trustee on the sequestrated Estate of the said *C.D.*, conform to Deliverance by the Lord Ordinary, dated the Day of and in Terms of the Bankruptcy (Scotland) Act, 1855.

[*Signed by the Trustee or his Agent.*]

SCHEDULE (F.)

For the Gazette.

Sequestration of *C.D.* [*Designation*].

A.B. [*Name and Designation*], has been elected Trustee on the Estate, and *E.F.* and *G.* [*Names and Designations*], have been elected Commissioners. The Examination of the Bankrupt will take place in the Sheriff Court House [*or other Place*] on [*Day of Week*] the [*Date*] of [*Month*] next, at [*Hour*]. The Creditors will meet in [*specify the Place, Day, Date, Month, and Hour*] o'Clock. [*If any Offer of Composition has been entertained at the Meeting for Election of Trustee, intimate this, as provided by the Act.*]

[*Signed by the Trustee.*]

[*Date.*]

SCHE-

5 *June* 1855. 18 VICT.

A

BILL

TO

Continue the Act for extending for a limited Time the Provision for Abatement of Income Tax in respect of Insurance on Lives.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS by an Act passed in the Session of Parliament holden in the Sixteenth and Seventeenth Years of the Reign of Her present Majesty, intituled "An Act to extend for "a limited Time the Provision for Abatement of Income Tax in "respect of Insurance on Lives," which Act was limited to continue in force until the Fifth Day of July One thousand eight hundred and fifty-four: And whereas by an Act passed in the last Session of Parliament the said first-mentioned Act was continued until the Fifth Day of July One thousand eight hundred and fifty-five: And whereas it is expedient to continue the said first-recited Act for such Period as herein-after mentioned: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble. 16 & 17 Vict. c. 91.

I. That the said Act shall continue in force until the *Fifth Day of July One thousand eight hundred and fifty-six*, and shall be applicable, with respect to the Rate of Duty of One Shilling and Twopence for every Twenty Shillings granted by the Act of the last Session of Parliament, 16 & 17 Vict. c. 91. 17 Vict. c. 24.

Parliament, Chapter Twenty-four, and to the additional Rate of Duty of Twopence for every Twenty Shillings granted by the Act of the present Session of Parliament, Chapter Twenty, in like Manner as to the Rate or Duty of Sevenpence for every Twenty Shillings granted by the Act passed in the Session of Parliament holden in the Sixteenth and Seventeenth Years of the Reign of Her present Majesty, Chapter Thirty-four.

18 Vict. c. 20.

A

BILL

To continue the Act for extending for a limited Time the Provision for Abatement of Income Tax in respect of Insurance on Lives.

(*Prepared and brought in by Mr. Wilson and The Chancellor of the Exchequer.*)

Ordered, by The House of Commons, *to be Printed, 5 June* 1855.

[Bill 156.]

Under 1 *oz.*

22 *February* 1855. 18 Vict.

(Scotland.)

A

BILL

TO

Alter in certain respects the Law of Intestate Moveable Succession in Scotland.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

The Issue of a predeceasing next of Kin shall represent their Parent in the Succession to an Intestate.

I. In all Cases of Intestate Succession in Scotland accruing after the *passing of this Act*, where any Person who, had he survived the Intestate, would have been among his next of Kin, shall have predeceased such Intestate, the lawful Child or Children of such Person so predeceasing shall represent and come in the Place of such Person, and the Issue of any such Child or Children, or of any Descendant of such Child or Children who may in like Manner have predeceased the Intestate, shall represent and come in the Place of his or their Parent predeceasing, and shall respectively have right to the Share of the MoveableEstate of the Intestate to which the Parent of such Child or Children or of such Issue, if he had survived the Intestate, would have been entitled.

Issue of predeceasing Heir, also One of the next of Kin

II. Provided always, That if the Person predeceasing would have been the Heir in Heritage of an Intestate leaving Heritable as well as Moveable Estate, had he survived such Intestate, and shall leave a

succeeding to the Intestate's Heritage must collate to participate in the Moveable Estate, but other Issue not excluded by his not collating.

Child or Children other than the Heir of such Intestate, such other Child or Children shall have right to a Share of the Moveable Estate of the Intestate, as representing their Parent, although the Heir shall not collate the Heritage; and such Heir, on Collation with the next of Kin of the Intestate, shall have right equally with his own Brothers and Sisters to participate in the Share of the Moveable Estate of the Intestate, to which under this Act they may be entitled; and if such Person predeceasing shall leave only One Child, who is the Heir in Heritage of the Intestate, or only Daughters who are Heirs Portioners of such Intestate, such Heir or Heirs Portioners shall not be entitled to a Share of the Moveable Estate of the Intestate, without collating with the next of Kin of such Intestate.

Issue of predeceasing Child to represent such Child in reference to Legitim.

III. Where any Child of a Person dying after the *passing of this Act*, who would, if he had survived such Person, have been entitled to Legitim, shall have predeceased him, the Issue of such Child and the Descendants of any predeceasing Issue of such Child shall represent and come in the Place of their Parent predeceasing, and shall have right to the Legitim or Share of Legitim to which such Parent, had he not predeceased, would have been entitled.

Father to succeed in preference to Brothers and Sisters or their Descendants.

IV. Where any Person dying intestate shall predecease his Father without leaving Issue, his Father shall succeed to his Moveable Estate in preference to any Brothers or Sisters or their Descendants who may have survived such Intestate.

Where Father has predeceased, Mother to succeed along with next of Kin when no Issue.

V. Where an Intestate dying without Issue whose Father has predeceased him shall be survived by his Mother, she shall have right to an equal Share of his Moveable Estate along with his next of Kin.

On a Wife predeceasing her Husband without Issue by him, her Representatives to have no Claim on the Goods in Communion.

VI. Where a Wife shall predecease her Husband without Issue of the Marriage with him, the next of Kin, Executors, or other Representatives of such Wife, whether Testate or Intestate, shall have no Right to any Share of the Goods in Communion, nor shall any Legacy or Bequest or Testamentary Disposition thereof by such Wife affect or attach to the said Goods or any Portion thereof.

Children of the Marriage not entitled to Payment of predeceasing Mother's Share of the Goods in Communion till the Father's Death, except in case of Bankruptcy.

VII. Where a Wife shall predecease her Husband, leaving Issue of the Marriage with such Husband, such Issue shall not be entitled to claim Payment of her Share of the Goods in Communion, nor shall the same become due, till the Death of their Father, unless in the event of his Bankruptcy, in which Case such Issue shall, during his Life, have right to rank with his other Creditors on his Estate for their Mother's Share of the Goods in Communion.

VIII. Where

VIII. Where a Marriage shall be dissolved before the Lapse of *a Year and Day* from its Date by the Death of One of the Spouses, the whole Rights of the Survivor and of the Representatives of the Predeceasor shall be the same as if the Marriage had subsisted for the Period aforesaid.

Rights of Spouses on Dissolution of Marriage not to be affected by its occurring within Year and Day.

IX. So much of an Act of the Parliament of Scotland passed in the Year One thousand six hundred and seventeen, and intituled "Anent Executors," as allows Executors Nominate to retain to their own Use a Third of the Dead's Part in accounting for the Moveable Estate of the Deceased, is hereby repealed.

Act 1617, c. 14, in part repealed.

X. In Questions between Heir and Executor, and in Questions under this Act, Sums of Money invested on Heritable Security which were payable to an Intestate, whether Infeftment shall or shall not have followed on the Heritable Bond, Disposition in Security, or other Deed by which such Heritable Security may be constituted, shall be deemed and taken to be Moveable Estate.

Money invested on Heritable Security to be held moveable as to Succession.

(Scotland.)

A

BILL

To alter in certain respects the Law of Intestate Moveable Succession in Scotland.

(Prepared and brought in by Mr. Dunlop and Mr. Kinnaird.)

Ordered, by The House of Commons, *to be Printed,* 22 *February* 1855.

[Bill 38.]

Under 1 *oz.*

20 *April* 1855. 18 Vict.

(Scotland.)

A

BILL

[AS AMENDED BY THE COMMITTEE]

TO

Alter in certain respects the Law of Intestate Moveable Succession in Scotland.

[Note.—*The Clauses marked* A. *and* B. *were added in the Committee.*]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

The Issue of a predeceasing next of Kin shall come in the Place of their Parent in the Succession to an Intestate.

I. In all Cases of Intestate Moveable Succession in Scotland accruing after the passing of this Act, where any Person who, had he survived the Intestate, would have been among his next of Kin, shall have predeceased such Intestate, the lawful Child or Children of such Person so predeceasing shall come in the Place of such Person, and the Issue of any such Child or Children, or of any Descendant of such Child or Children, who may in like Manner have predeceased the Intestate, shall come in the Place of his or their Parent predeceasing, and shall respectively have Right to the Share of the Moveable Estate of the Intestate to which the Parent of such Child or Children or of such Issue, if he had survived the Intestate, would have been entitled: Provided always, that no Representation shall be admitted among Collaterals after Brothers and Sisters Descendants,

and that the surviving next of Kin of the Intestate claiming the Office of Executor shall have exclusive Right thereto, in preference to the Children or other Descendants of any predeceasing next of Kin.

Issue of predeceasing Heir, also One of the next of Kin succeeding to the Intestate's Heritage, must collate to participate in the Moveable Estate, but other Issue not excluded by his not collating.

II. Where the Person predeceasing would have been the Heir in Heritage of an Intestate leaving Heritable as well as Moveable Estate had he survived such Intestate, his Child, being the Heir in Heritage of such Intestate, shall be entitled to collate the Heritage to the Effect of claiming for himself, or for himself and the other Issue of the Predeceaser, if any be, the Share of the Moveable Estate of the Intestate which might have been claimed by the Predeceaser upon Collation if he had survived the Intestate; and Daughters of the Predeceaser, being Heirs Portioners of the Intestate, shall be entitled to collate to the like Effect; and where, in the Case aforesaid, the Heir shall not collate, his Brothers and Sisters, or their Descendants in their Place, shall have Right to a Share of the Moveable Estate equal in Amount to the Excess in Value over the Value of the Heritage of such Share of the whole Estate, Heritable and Moveable, as their predeceasing Parent had he survived the Intestate would have taken on Collation.

Father to succeed in preference to Brothers and Sisters or their Descendants.

III. Where any Person dying intestate shall predecease his Father without leaving Issue, his Father shall have Right to One Half of his Moveable Estate, in preference to any Brothers or Sisters or their Descendants who may have survived such Intestate.

Where Father has predeceased, Mother to succeed along with next of Kin when no Issue.

IV. Where an Intestate dying without leaving Issue whose Father has predeceased him shall be survived by his Mother, she shall have Right to One Half of his Moveable Estate, in preference to his Brothers and Sisters or other, along with his next of Kin.

Clause A. Succession by Brothers and Sisters uterine.

V. Where an Intestate dying without leaving Issue, whose Father and Mother have both predeceased him, shall not leave any Brother or Sister german or consanguinean, nor any Descendant of a Brother or Sister german or consanguinean, One Half of his Moveable Estate shall be taken by his next of Kin, and the other Half by his Brothers and Sisters uterine, or their Descendants, if any be.

On a Wife predeceasing her Husband without Issue by him, her Representatives to have no Claim on the Goods in Communion.

VI. Where a Wife shall predecease her Husband, the next of Kin, Executors, or other Representatives of such Wife, whether testate or intestate, shall have no Right to any Share of the Goods in Communion, nor shall any Legacy or Bequest or Testamentary Disposition thereof by such Wife affect or attach to the said Goods or any Portion thereof.

VII. Where

VII. Where a Marriage shall be dissolved before the Lapse of a Year and Day from its Date, by the Death of One of the Spouses, the whole Rights of the Survivor and of the Representatives of the Predeceaser shall be the same as if the Marriage had subsisted for the Period aforesaid.

Rights of Spouses on Dissolution of Marriage not to be affected by its occurring within Year and Day.

VIII. So much of an Act of the Parliament of Scotland passed in the Year One thousand six hundred and seventeen, and intituled "Anent Executors," as allows Executors nominate to retain to their own Use a Third of the Dead's Part in accounting for the Moveable Estate of the Deceased, is hereby repealed, and Executors nominate shall, as such, have no Right to any Part of the said Estate.

Act 1617, c. 14. in part repealed.

CLAUSE B.

IX. The Words "Intestate Succession" shall mean and include Succession in Cases of partial as well as of total Intestacy; "Intestate" shall mean and include every Person deceased who has left undisposed of by Will the whole or any Portion of the Moveable Estate on which he might, if not subject to Incapacity, have tested; "Moveable Estate" shall mean and include the whole free Moveable Estate on which the Deceased, if not subject to Incapacity, might have tested, undisposed of by Will, and any Portion thereof so undisposed of.

Interpretation.

Intestacy.

(Scotland.)

A

BILL

[AS AMENDED BY THE COMMITTEE]

To alter in certain respects the Law of Intestate Moveable Succession in Scotland.

(*Prepared and brought in by Mr. Dunlop and Mr. Kinnaird.*)

Ordered, by The House of Commons, *to be Printed*, 20 *April* 1855.

[Bill 83.]

Under 1 *oz.*

5 May 1855. 18 Vict.

(Scotland.)

A

BILL

[AS AMENDED BY THE COMMITTEE, AND ON CONSIDERATION OF BILL AS AMENDED]

TO

Alter in certain respects the Law of Intestate Moveable Succession in Scotland.

[Note.—*The Clauses marked* A. *and* B. *were added in the Committee.*]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

The Issue of a predeceasing next of Kin shall come in the Place of their Parent in the Succession to an Intestate.

I. In all Cases of Intestate Moveable Succession in Scotland accruing after the passing of this Act, where any Person who, had he survived the Intestate, would have been among his next of Kin, shall have predeceased such Intestate, the lawful Child or Children of such Person so predeceasing shall come in the Place of such Person, and the Issue of any such Child or Children, or of any Descendant of such Child or Children, who may in like Manner have predeceased the Intestate, shall come in the Place of his or their Parent predeceasing, and shall respectively have Right to the Share of the Moveable Estate of the Intestate to which the Parent of such Child or Children or of such Issue, if he had survived the Intestate, would have been entitled: Provided always, that no Representation shall be admitted among Collaterals after Brothers and Sisters Descendants,

and that the surviving next of Kin of the Intestate claiming the Office of Executor shall have exclusive Right thereto, in preference to the Children or other Descendants of any predeceasing next of Kin, but that such Children or Descendants shall be entitled to Confirmation when no next of Kin shall compete for said Office.

Issue of predeceasing Heir succeeding to the Intestate's Heritage may collate, but other Issue not excluded by his not collating from claiming out of Moveable Estate Difference between Value of Heritage and Share their Parent would have taken on Collation.

II. Where the Person predeceasing would have been the Heir in Heritage of an Intestate leaving Heritable as well as Moveable Estate had he survived such Intestate, his Child, being the Heir in Heritage of such Intestate, shall be entitled to collate the Heritage to the Effect of claiming for himself alone, if there be no other Issue of their Predeceaser, or for himself and the other Issue of the Predeceaser, if there be such other Issue, the Share of the Moveable Estate of the Intestate which might have been claimed by the Predeceaser upon Collation if he had survived the Intestate; and Daughters of the Predeceaser, being Heirs Portioners of the Intestate, shall be entitled to collate to the like Effect; and where, in the Case aforesaid, the Heir shall not collate, his Brothers and Sisters, and their Descendants in their Place, shall have Right to a Share of the Moveable Estate equal in Amount to the Excess in Value over the Value of the Heritage of such Share of the whole Estate, Heritable and Moveable, as their predeceasing Parent had he survived the Intestate would have taken on Collation.

Father to succeed to Extent of One Half when no Issue.

III. Where any Person dying intestate shall predecease his Father without leaving Issue, his Father shall have Right to One Half of his Moveable Estate, in preference to any Brothers or Sisters or their Descendants who may have survived such Intestate.

Where Father has predeceased, Mother to succeed to Extent of One Third.

IV. Where an Intestate dying without leaving Issue whose Father has predeceased him shall be survived by his Mother, she shall have Right to One Third of his Moveable Estate, in preference to his Brothers and Sisters or their Descendants, or other next of Kin of such Intestate.

Clause A. Succession by Brothers and Sisters uterine.

V. Where an Intestate dying without leaving Issue, whose Father and Mother have both predeceased him, shall not leave any Brother or Sister german or consanguinean, nor any Descendant of a Brother or Sister german or consanguinean, but shall leave Brothers and Sisters uterine, or a Brother or Sister uterine, or any Descendant of a Brother or Sister uterine, such Brothers and Sisters uterine and such Descendants in place of their predeceasing Parent shall have Right to One Half of his Moveable Estate.

On a Wife predeceasing her Husband

VI. Where a Wife shall predecease her Husband, the next of Kin, Executors, or other Representatives of such Wife, whether testate

or

or intestate, shall have no Right to any Share of the Goods in Communion, nor shall any Legacy or Bequest or Testamentary Disposition thereof by such Wife affect or attach to the said Goods or any Portion thereof.

her Representatives to have no Claim on the Goods in Communion.

VII. Where a Marriage shall be dissolved before the Lapse of a Year and Day from its Date, by the Death of One of the Spouses, the whole Rights of the Survivor and of the Representatives of the Predeceaser shall be the same as if the Marriage had subsisted for the Period aforesaid.

Rights of Spouses on Dissolution of Marriage not to be affected by its occurring within Year and Day.

VIII. So much of an Act of the Parliament of Scotland passed in the Year One thousand six hundred and seventeen, and intituled "Anent Executors," as allows Executors nominate to retain to their own Use a Third of the Dead's Part in accounting for the Moveable Estate of the Deceased, is hereby repealed, and Executors nominate shall, as such, have no Right to any Part of the said Estate.

Act 1617, c. 14. in part repealed.

IX. The Words "Intestate Succession" shall mean and include Succession in Cases of partial as well as of total Intestacy; "Intestate" shall mean and include every Person deceased who has left undisposed of by Will the whole or any Portion of the Moveable Estate on which he might, if not subject to Incapacity, have tested; "Moveable Estate" shall mean and include the whole free Moveable Estate on which the Deceased, if not subject to Incapacity, might have tested, undisposed of by Will, and any Portion thereof so undisposed of.

Clause B. Interpretation.

(Scotland.)

A

BILL

[AS AMENDED BY THE COMMITTEE, AND ON CONSIDERATION OF BILL AS AMENDED]

To alter in certain respects the Law of Intestate Moveable Succession in Scotland.

(Prepared and brought in by Mr. Dunlop and Mr. Kinnaird.)

Ordered, by The House of Commons, *to be Printed, 5 May* 1855.

[Bill 108.]

Under 1 *oz.*

19 *February* 1855. 18 VICT.

(Ireland.)

A

BILL

TO

Amend the Laws concerning the Burial of the Dead in Ireland within the Limits of the Police District of Dublin Metropolis and other Corporate Cities and Towns in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS it is expedient to make better Provision for and in relation to Burials within the Limits of the Police District of Dublin Metropolis and other Cities and Towns Corporate in Ireland: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. In case it appear to the Lord Lieutenant in Council, upon the Representation of the Chief or Under Secretary, that for the Protection of the Public Health the opening of any new Burial Ground in any City or Town Corporate in Ireland, save with the previous Approval of the Lord Lieutenant, should be prohibited, or that Burials in any City or Town Corporate should be wholly discontinued, or should be discontinued subject to any Exception or Qualification, it shall be lawful for the Lord Lieutenant, by and with the Advice of Her Majesty's Privy Council of Ireland, to order that no new Burial Ground shall be opened in such City or Town or within such Limits without On Representation of Chief or Under Secretary, Lord Lieutenant in Council may restrain the opening of new Burial Grounds, and order Discontinuance of

Burials in specified Places.

without such previous Approval, or (as the Case may require) that after a Time mentioned in the Order Burials in such City or Town or within such Limits or in such Burial Grounds or Places of Burial shall be discontinued wholly, or subject to any Exceptions or Qualifications mentioned in such Order, and so from Time to Time as Circumstances may require: Provided always, that Notice of such Representation, and of the Time when it shall please the Lord Lieutenant to order the same to be taken into consideration by the Privy Council, shall be published in the Dublin Gazette, and shall be affixed on the Doors of the Churches or Chapels of or on some other conspicuous Places within the Parishes affected by such Representation *One Month* before such Representation is so considered; provided also, that no such Representation shall be made in relation to the Burial Ground of any Parish until *Ten Days* previous Notice of the Intention to make such Representation shall have been given to the Incumbent and the Vestry Clerk or Churchwardens of such Parish.

Order not to extend to Burial Places of Quakers unless expressly included.

II. No such Order in Council as aforesaid shall be deemed to extend to any Burial Ground of the People called Quakers, used solely for the Burial of the Bodies of such People and Persons respectively, unless the same be expressly mentioned in such Order; and nothing in this Act shall prevent the Burial in any such Burial Ground in which for the Time being Interment is not required to be discontinued of the Bodies of such People and Persons respectively; and no such Order in Council as aforesaid shall be deemed to extend to any Non-parochial Burial Ground being the Property of any private Person, unless the same be expressly mentioned in such Order.

Burial not to take place after Order in Council for Discontinuance.

III. It shall not be lawful after the Time mentioned in any such Order in Council for the Discontinuance of Burials to bury the Dead in any Church, Chapel, Churchyard, or Burial Place, or elsewhere within the Parts to which such Order extends, or in the Burial Grounds or Places of Burial (as the Case may be) in which Burials have by any such Order been ordered to be discontinued, except as in this Act or in such Order excepted; and every Person who shall, after such Time as aforesaid bury any Body or in any wise act or assist in the Burial of any Body contrary to this Enactment shall be guilty of a Misdemeanor.

Saving of certain Rights to bury in Vaults, &c.

IV. Provided always, That notwithstanding any such Order in Council, where by virtue of any Faculty legally granted, or by Usage or otherwise, there is at the Time of the *passing of this Act* any Right of Interment in or under any Church or Chapel affected by

by such Order, or in any Vault of any such Church or Chapel, or of any Churchyard or Burial Ground affected by such Order, and where any exclusive Right of Interment in any such Burial Ground has been purchased or acquired before the passing of this Act, it shall be lawful for either the Chief or Under Secretary from Time to Time, on Application being made to him, and on being satisfied that the Exercise of such Right will not be injurious to Health, to grant a Licence for the Exercise of such Right during such Time and subject to such Conditions and Restrictions as such Chief or Under Secretary may think fit, but such Licence shall not prejudice or in anywise affect the Authority of the Ordinary or of any other Person who, if this Act had not been passed, might have prohibited or controlled Interment under such Right, nor dispense with any Consent which would have been required, nor otherwise give to such Right any greater Force or Effect than the same would have had if this Act had not been passed.

Not to extend to Cemeteries established by Act of Parliament.

V. The Provisions of this Act shall not extend to authorize the Discontinuance of Burials or to prevent the Burial of the Body of any Person in any Cemetery established under the Authority of any Act of Parliament, or in any Burial Ground or Cemetery to be hereafter provided with the Approval of either the said Chief or Under Secretary for Ireland, as herein mentioned.

New Burial Grounds not to be opened contrary to Order in Council.

VI. Where by any such Order in Council as aforesaid it is ordered that no new Burial Ground shall be opened in any City or Town, or within any Limits therein mentioned, without the previous Approval of said Chief or Under Secretary for Ireland, no new Burial Ground or Cemetery (Parochial or Non-parochial) shall be provided and used in such City or Town or within such Limits without such previous Approval.

Interpretation Clause.

VII. In the Construction of this Act, the Expression "Lord Lieutenant" shall mean the Lord Lieutenant of Ireland, or other Chief Governor or Governors thereof; the Expression "Council" shall mean Her Majesty's Privy Council of Ireland; and the Expression "Chief and Under Secretary" shall mean Chief and Under Secretary of the Lord Lieutenant or other Chief Governor or Governors of Ireland.

(Ireland.)

A

BILL

To amend the Laws concerning the Burial of the Dead in Ireland within the Limits of the Police District of Dublin Metropolis and other Corporate Cities and Towns in Ireland.

(*Prepared and brought in by Sir John Young and Sir George Grey.*)

Ordered, *by* The House of Commons, *to be Printed*, 19 *February* 1855.

[Bill 23.]

Under 1 *oz.*

11 *July* 1855. 18 & 19 Vict.

A

BILL

TO

Extend the Provisions of an Act of the Fourteenth and Fifteenth Years of Her present Majesty, for rebuilding the Bridge over the River Ness at Inverness.

WHEREAS by an Act passed in the Session of Parliament holden in the Fourteenth and Fifteenth Years of Her Majesty, Chapter Sixty-six, "for rebuilding the Bridge over "the River Ness at the Town of Inverness, and improving the Approaches thereto, and for amending the Acts relating to Highland "Roads and Bridges," after Provision for the Application of a Sum of Seven thousand seven hundred Pounds, towards the Expense of erecting the said Bridge, it was enacted, that it should be lawful for the Commissioners of Her Majesty's Treasury to advance by way of Loan to the Commissioners of Highland Roads and Bridges, for the Purposes of the said Act, any further Sum not exceeding Ten thousand seven hundred Pounds out of the growing Produce of the Consolidated Fund, to be repaid, with Interest, in manner hereinafter provided, and that there should, upon the Advance by the said Commissioners of the Treasury of all or any Part of the said Loan of Ten thousand seven hundred Pounds, be appropriated to the Repayment of the Sum advanced and Interest thereof such Parts of the

Preamble.

14 & 15 Vict. c. 66. s. 3.

s. 4.

Sums allotted to the Counties of Inverness, Ross, Sutherland, and Caithness, out of an annual Grant of Five thousand Pounds, in the said Act mentioned, as would produce an annual Payment at the Rate of Six Pounds Ten Shillings for every One hundred Pounds of the Sum so advanced, and so in proportion for any lesser Amount, and such annual Payment should be made for the Term of Twenty-two Years, to be computed from the Sixth Day of April or Tenth Day of October which should first happen after such Advance, and further Provisions are therein contained concerning such annual Payment, and for the Deduction thereof from the Sums allotted to the said Counties, and to provide for the Deficiency to arise by such Deductions: And whereas the Expense of erecting the said Bridge having exceeded the estimated Amount thereof it is expedient that further Public Assistance should be afforded towards defraying such Expense upon the Conditions herein-after expressed: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Monies to be provided by Parliament to be applied towards the Expense of the new Bridge.

I. Any Monies to be provided by Parliament for that Purpose shall be applied by the said Commissioners of Highland Roads and Bridges, under the Direction of the Commissioners of Her Majesty's Treasury, towards defraying the Expense of erecting the said new Bridge by the said Act authorized to be made and maintained.

Treasury authorized to advance 3,000*l.* by way of Loan.

II. It shall be lawful for the Commissioners of Her Majesty's Treasury to advance by way of Loan to the said Commissioners of Highland Roads and Bridges, towards defraying the Expense of erecting the said Bridge, any further Sum not exceeding Three thousand Pounds, out of the growing Produce of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, and such Sum shall be repaid, with Interest, in the Manner herein-after provided.

Sums advanced under this Act to be repaid, with Interest, from the County Allotments.

III. Upon the Advance of the said Commissioners of the Treasury of all or any Part of the said Loan of *Three thousand Pounds*, there shall be appropriated to Repayment of the Sum advanced, and Interest thereof, such Parts of the Sums allotted as in the said Act mentioned to the said Counties of Inverness, Ross, Sutherland, and Caithness, out of the said annual Grant of Five thousand Pounds, as will produce an annual Payment at the Rate of *Six Pounds Ten Shillings* for every One hundred Pounds of the Sum so advanced, and so in proportion for any lesser Amount, such annual Payment to be made for the Term of *Twenty-two* Years; and all the Provisions of the said Act of the Fourteenth and Fifteenth Years of Her Majesty with reference to the said Sum of Ten thousand seven hundred Pounds,

The Provisions of 14 & 15 Vict c. 66. concerning the

and

and the Charges of the annual Payments in respect thereof, and the Deduction of such annual Payments from the Sums allotted to the said Counties, and for supplying the Deficiency to arise by such Deductions, shall be extended and shall be applicable to the said Sum of *Three thousand Pounds* to be advanced by way of Loan under this Act, and the Charges of the annual Payments in respect thereof, and the Deduction of such annual Payments from the Sums allotted to the said Counties, and for supplying the Deficiency to arise from such last-mentioned Deductions.

Loan of 10,700*l.* extended to the Sum of 3,000*l.* to be advanced under this Act.

A

BILL

To extend the Provisions of an Act of the Fourteenth and Fifteenth Years of Her present Majesty, for rebuilding the Bridge over the River Ness at Inverness.

(*Prepared and brought in by Mr. Wilson and the Chancellor of the Exchequer.*)

Ordered, by The House of Commons, *to be Printed,* 11 *July* 1855.

[Bill 238.]

Under 1 *oz.*

20 *July* 1855. 18 & 19 Vict.

A

BILL

TO

Authorize the Commissioners of the Treasury to make Arrangements concerning a certain Loan advanced by way of Relief to the Island of Tobago.

WHEREAS by an Act passed in the Session holden in the Eleventh and Twelfth Years of Her Majesty, Chapter Twenty-two, ("for granting Relief to the Island of "Tobago, and for aiding the Colonies of British Guiana and "Trinidad in raising Money for the Promotion of Immigration of "Free Labourers,") the Commissioners of Her Majesty's Treasury were authorized, in manner therein mentioned, to lend Exchequer Bills for any Sum not exceeding Fifty thousand Pounds for the Service of the Island of Antigua, and any Sums not exceeding in the whole Fifty thousand Pounds for the Relief of the Island of Tobago, on the Credit of the Revenues and public Property thereof, as soon as the said Commissioners should be satisfied that Repayment of the several Sums to be advanced (with Interest thereon at the yearly Rate of Four Pounds by the Hundred) was duly secured to the Satisfaction of the said Commissioners, by some Act or Acts passed or to be passed by the Legislature of the said Island: And whereas the Commissioners of Her Majesty's Treasury accordingly advanced the Sum of Twenty thousand Pounds to the Island of Tobago, being the Proportion required

Preamble. 11 & 12 Vict. c. 22.

quired of the said Sum of Fifty thousand Pounds, the Repayment thereof, with Interest, having been secured by the Legislature of the said Island, as required by the said Act, and out of the Sums so advanced Advances were made, under the Authority of the said Legislature, to Persons who had suffered Losses by a Hurricane in the said Island: And whereas it is expedient that the Commissioners of the Treasury should be empowered to extend the Time for the Repayment of the Principal Monies remaining owing on the said Securities, and to reduce the Interest payable thereunder, as hereinafter mentioned: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Treasury authorized to extend the Time of Repayment of Loan to Tobago, and to reduce Interest to 3*l.* 5*s.* per Cent.

I. It shall be lawful for the Commissioners of Her Majesty's Treasury to grant such Extension of the Period for Payment of the Principal Monies owing by the said Island of Tobago, in respect of the said Loan, and to accept Payment thereof by such Instalments and at such Times as the said Commissioners in their Discretion may think proper and fix, and to accept Interest upon the Principal Monies remaining unpaid, after the yearly Rate of *Three Pounds Five Shillings* per Centum, instead of the said yearly Rate of Four Pounds per Centum, upon being satisfied that an Act has been passed by the Legislature of such Island for securing on the Credit of the Revenue or public Property thereof the punctual Payment of the Instalments of Principal Monies, with Interest as aforesaid, at the Times and in manner fixed by the said Commissioners, and also for securing to the Persons indebted in respect of the Advances made out of the said Loan to the Sufferers in the said Island Advantages corresponding with those granted to such Legislatures under this Act.

Corresponding Advantages being secured to the private Borrowers.

In case of Default of Payment at the Times fixed under this Act, the Rate of Interest and Instalments originally agreed upon may be required.

II. Provided always, That in case of Default in Payment of any of the Instalments of Principal Monies which may become payable from the said Island under such Extension of Time, or of the said reduced Interest, at the Times fixed by the said Commissioners of the Treasury, it shall be lawful for such Commissioners to require from the Island, in case of such Default, Payment of Interest at the yearly Rate of Four Pounds per Centum on the Principal Monies remaining due, and also Payment of such Principal Monies by such Instalments as were made payable by the Securities originally given by the Legislature of such Island; and such Interest and Instalments of Principal Monies which may be so required to be paid shall thereupon become payable accordingly.

A

BILL

To authorize the Commissioners of the Treasury to make Arrangements concerning a certain Loan advanced by way of Relief to the Island of Tobago.

(*Prepared and brought in by Mr. Wilson and the Chancellor of the Exchequer.*)

Ordered, by The House of Commons, *to be Printed*, 20 *July* 1855.

[Bill 266.]

Under 1 *oz.*

20 *July* 1855. 18 & 19 Vict.

(Scotland.)

A

BILL

TO

Extend the Period for which Her Majesty may grant Letters Patent of Incorporation to Joint Stock Banks in Scotland existing before the Act of One thousand eight hundred and forty-six.

WHEREAS under the Provisions of the Act of the Ninth and Tenth Years of Her present Majesty, Chapter Seventy-five, (whereby the Act of the Seventh and Eighth Years of Her Majesty, Chapter One hundred and thirteen, was extended to Joint Stock Banks in Scotland,) Her Majesty, with the Advice of Her Privy Council, is empowered to grant Letters Patent of Incorporation to any Company of more than Six Persons who were carrying on the Business of Bankers in Scotland on or before the Ninth Day of August One thousand eight hundred and forty-five, upon the Terms and in manner in the said Acts mentioned or referred to, but only for a Term of Years not exceeding Twenty Years: And whereas it is expedient that Her Majesty should be empowered in certain Cases to grant such Letters Patent of Incorporation for a longer Period: Now be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, Preamble.

Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Extending Period for which Her Majesty may grant Letters Patent of Incorporation to certain Joint Stock Banks in Scotland.

I. That, notwithstanding anything in the said Acts contained, it shall be lawful for Her Majesty to grant Letters Patent of Incorporation under the said Acts to any Company of more than *Six* Persons in Scotland who were carrying on the Business of Bankers before the said Ninth Day of August One thousand eight hundred and forty-five, either for a Term of Years or in perpetuity, but so that they shall be liable to be revoked, altered, or otherwise dealt with by or under the Provisions of any future Acts of Parliament.

Scotland.)

A

BILL

To extend the Period for which Her Majesty may grant Letters Patent of Incorporation to Joint Stock Banks in Scotland existing before the Act of One thousand eight hundred and forty-six.

(Prepared and brought in by Mr. Wilson and the Chancellor of the Exchequer.)

Ordered, by The House of Commons, *to be Printed,* 20 *July* 1855.

[Bill 265.]

Under 1 *oz.*

Judgments Execution, &c. Bill.

ARRANGEMENT OF CLAUSES.

Decrees and Orders of Court of Chancery in England may be registered and enforced in Ireland, and vice versâ, and Decrees or Orders of Encumbered Estates Commissioners in Ireland may be registered and enforced in England; Sect. 1.

Decrees of Court of Chancery in England or Ireland, or of Encumbered Estates Commission in Ireland, may be registered and enforced in Scotland; 2.

Where final Judgment has been obtained in the Courts at Westminster the Person entitled to the Benefit thereof may register a Memorial of such Judgment in Ireland, and vice versâ, and obtain Execution thereon; 3.

Where final Judgment has been obtained in the Courts at Westminster or at Dublin, the Persons entitled to the Benefit thereof may register a Memorial of such Judgment in Scotland, and obtain Execution thereon; 4.

Decreets of Court of Session, or of Sheriff or Burgh Courts in Scotland, may be registered in England or Ireland, and Execution obtained thereon; 5.

Security for Costs, where Plaintiff resides in a different Part of the United Kingdom, abolished; 6.

Costs not to be allowed in Actions on Judgments, unless by Order of Court; 7.

Punishment of Forgery of Signature of Officer of Court or Seal of Court; 8.

Judges to make Rules for Execution of this Act; 9.

Judges at Westminster and Dublin to issue altered Writs of Execution, if necessary; 10.

Act not to affect Defendants residing out of Jurisdiction at Commencement of Suit or Action; 11.

Short Title of Act; 12.

SCHEDULE.

A

BILL

TO

Enforce in any Part of the United Kingdom, Decrees and Orders of the High Court of Chancery in England and Ireland, and of the Commissioners for Sale of Encumbered Estates in Ireland, and to allow Execution to issue in any Part of the United Kingdom under Judgments or Decreets obtained in certain Courts of Record in England, Scotland, and Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS by affording to Her Majesty's Subjects in England, Ireland, and Scotland respectively more effectual Means of enforcing pecuniary Engagements in One Country by Persons who reside or possess Estates in either of the others, greater Confidence will be placed in such Engagements, and the Interests of Her Majesty's Subjects throughout the United Kingdom be thereby promoted: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

Decrees and Orders of Court of Chancery in England may be registered and enforced in Ireland, and vice versâ, and Decrees or Orders of Encumbered Estates Commissioners in Ireland may be registered and enforced in England.

I. So much of the Act 41 Geo. 3. c. 90. as is contained in the Fifth and Sixth Sections thereof, and also so much of the Act 12 & 13 Vict. c. 77. as is contained in the Fourteenth Section thereof, is hereby repealed; and after the *passing of this Act*, on Production to the Registrar or other proper Officer of the Court of Chancery in Ireland of any Decree or Order or of an Office Copy of any Decree or Order which shall have been made or shall hereafter be made by the Court of Chancery in England for the Payment of any Money, and on Production to the Clerk of the Entries of the Report Office of the Court of Chancery in England of any Decree or Order or of an Office Copy of any Decree or Order which shall have been made or shall hereafter be made by the Court of Chancery in Ireland, or by the Commissioners for Sale of Encumbered Estates in Ireland, for the Payment of any Money, every such Decree or Order shall be entered in the Registrar's Book of the Court of Chancery of Ireland or England, as the Case may be, by the Officer to whom the same or an Office Copy of the same shall be produced, and such Entry shall be certified by the proper Officer at the Foot of such Decree or Order or Office Copy; and every Decree or Order so entered shall from the Date of such Entry be of the same Force and Effect in all respects, and may in all respects be acted upon and dealt with, as a Decree or Order made in a Suit by the Court in the Registrar's Book whereof it shall be so entered: Provided that any Decree or Order which may have been enrolled under the Provisions of the said Acts before the passing of this Act may be enforced in like Manner as if the said Sections of the said Acts had not been repealed.

Decrees of Court of Chancery in England or Ireland, or of Encumbered Estates Commission in Ireland, may be registered and enforced in Scotland.

II. Where any Decree shall have been pronounced or shall hereafter be pronounced, or any Order shall have been made or shall hereafter be made, for the Payment of any Money, by the High Court of Chancery of England or Ireland, or by the Commissioners for the Sale of Encumbered Estates in Ireland, on Production at the Office in Edinburgh kept for the Registration of Deeds, Bonds, Protests, and other Writs registered in the Books of Council and Session of such Decree or Order, or of an Office Copy of such Decree or Order, such Decree or Order shall thereupon be registered in a Book to be kept for that Purpose, and to be called the Register for English and Irish Decrees and Judgments, in like Manner as a Bond executed according to the Law of Scotland, with a Clause of Registration for Execution therein contained, and every Decree or Order so registered shall from the Date of such Registration have the Effect of, in all respects, and may in all respects be acted upon and dealt with as, a Decreet of the Court of Session, to all Intents and Purposes as if such Decree or Order had originally been obtained or pronounced in the Court of Session.

III. Where

III. Where final Judgment in an adverse Suit shall have been obtained or entered up, or shall hereafter be obtained or entered up, in any of the Courts of Queen's Bench, Common Pleas, or Exchequer at Westminster or Dublin respectively, or in any Superior Court of Record in England or Ireland respectively, for any Debt, Damages, Costs, or Rent which shall have been thereby adjudged to be paid, on Production to the Master of the Court of Common Pleas at Dublin, where such Judgment shall have been obtained or entered up in any of the said Courts in England, or to the Senior Master of the Court of Common Pleas at Westminster, where such Judgment shall have been obtained or entered up in any of the said Courts in Ireland, of a Memorial of such Judgment, in the Form contained in the Schedule to this Act annexed, signed by the proper Officer of the Court where such Judgment has been obtained or entered up, and sealed with the Seal of such Court, such Memorial shall be registered by such Master in a Register to be kept in the Court of Common Pleas at Dublin and at Westminster respectively for that Purpose, and to be called in the Court of Common Pleas at Dublin "The Register for English Judgments," and to be called in the Court of Common Pleas at Westminster "The Register for Irish Judgments," and every Memorial so registered shall from the Date of such Registration have the Effect of, in all respects, and may in all respects be acted upon and dealt with as, a Judgment of the Court in which it is so registered, to all Intents and Purposes as if such Judgment had been originally obtained or entered up in such Court: Provided always, that no Proceeding to revive such Judgment shall be taken, nor shall any Writ of Error be brought on any such Memorial registered under the Authority of this Act.

Where final Judgment has been obtained in the Courts at Westminster, the Person entitled to the Benefit thereof may register a Memorial of such Judgment in Ireland, and vice versâ, and obtain Execution thereon.

IV. Where final Judgment in an adverse Suit shall have been obtained or entered up, or shall hereafter be obtained or entered up, in any of the Court of Queen's Bench, Common Pleas, or Exchequer at Westminster or Dublin respectively, or in any Superior Court of Record in England or Ireland, for any Debt, Damages, Costs, or Rent, on Production at the Office kept in Edinburgh for the Registration of Deeds, Bonds, Protests, and other Writs registered in the Books of Council and Session of a Memorial of such Judgment, in the Form contained in the Schedule to this Act annexed, signed by the proper Officer of the Court where such Judgment has been obtained or entered up, and sealed with the Seal of such Court, such Memorial shall be registered in the Register for English and Irish Decrees and Judgments, in like Manner as a Bond executed according to the Law of Scotland, with a Clause of Registration for Execution therein contained; and every Memorial so registered shall from the Date of such Registration have the Effect of, in all respects, and may in all respects be acted upon and dealt with as, a Decreet of the

Where final Judgment has been obtained in the Courts at Westminster or at Dublin, the Persons entitled to the Benefit thereof may register a Memorial of such Judgment in Scotland, and obtain Execution thereon.

Court of Session, to all Intents and Purposes as if such Judgment had originally been obtained or pronounced in the Court of Session.

Decrees of Court of Session, or of Sheriff or Burgh Courts in Scotland, may be registered in England or Ireland, and Execution obtained thereon.

V. On Production to the Senior Master of the Court of Common Pleas at Westminster, or to the Master of the Court of Common Pleas at Dublin, of an Extract, in the Form contained in the Schedule to this Act annexed, of any Decreet of the Court of Session in Scotland which shall have been obtained or shall hereafter be obtained for the Payment of any Debt, Damages, or Expenses, signed by the Extractor of the Court of Session, or other Officer duly authorized to make and subscribe Extracts, or on Production of an Extract, in the Form contained in the Schedule to this Act annexed, of any Decreet of any Sheriff Court or Burgh Court in Scotland, which shall have been obtained or shall hereafter be obtained, for the Payment of any Debt, Damages, or Expenses, signed by the Clerk of such Sheriff or Burgh Court, or other Officer duly authorized to make and subscribe Extracts, such Extract shall be registered by such Master in a Register to be kept in the Court of Common Pleas at Westminster and Dublin respectively for that Purpose, and to be called the Register for Scotch Judgments, and such Extract when so registered shall from the Date of such Registration have the Effect of, in all respects, and may in all respects be acted upon and dealt with as, a Judgment of the Court in which it is so registered, to all Intents and Purposes as if such Judgment had been originally obtained or entered up in such Court: Provided always, that no Proceeding to revive such Decreet shall be taken nor shall any Writ of Error be brought on any such Extract registered under the Authority of this Act; provided also, that where a Note of Suspension of any such Decreet shall have been passed or a Sist of Execution shall have been granted thereon by the said Court of Session or any Judge thereof, on the Production of a Certificate under the Hand of the Clerk to the Bill Chamber of the Court of Session of the passing of such Note or the granting of such Sist, to a Judge of the Court in which such Extract of such Decreet has been registered, Execution on such registered Extract shall be stayed until a Certificate be produced under the Hand of the said Clerk that such Sist has been recalled or has expired, or where the Note of Suspension has been passed, until there be produced an Extract, under the Hand of the Extractor of the Court of Session or other Officer duly authorized to make and subscribe Extracts, of a Decreet of the said Court repelling the Reasons of Suspension.

Security for Costs, where Plaintiff resides in a different Part of the

VI. It shall not be necessary for any Plaintiff in any of the aforesaid Courts in England, resident in Ireland or Scotland, or any Plaintiff in any of the aforesaid Courts in Ireland, resident in England or Scotland, to find Security for Costs in respect of such Residence, unless,

unless, on special Grounds, a Judge or the Court shall otherwise order, nor shall it be necessary for any Party to any Suit in any of the aforesaid Courts in Scotland, resident in England or Ireland, to sue by or sist a Mandatory, or otherwise to find Security for Expenses in respect of such Residence, unless on special Grounds the Court shall otherwise order. United Kingdom, abolished.

VII. In any Action brought in any Court in England, Ireland, or Scotland, on any Decree, Order, Judgment, or Decreet which might be registered under this Act in the Country in which such Action is brought, the Party bringing such Action shall not recover or be entitled to any Costs or Expenses of Suit, unless the Court in which such Action shall be brought, or some Judge of the same Court, shall otherwise order. Costs not to be allowed in Actions on Judgments, unless by Order of Court.

VIII. If any Person shall forge the Signature of any Officer of any Court in England, Ireland, or Scotland, or the Seal of any such Court, to any Decree or Order, or to any Office Copy of any Decree or Order, or to any Memorial of a Judgment, or to any Extract of a Decreet, or to any other Document required under this Act, or shall tender for Registration, or use or utter, any such Decree or Order, Office Copy of a Decree or Order, Memorial, Extract, or Document, with a false or counterfeit Signature or Seal thereto, knowing the same to be forged, he shall be guilty of Felony, and in Scotland of a High Crime and Offence, and shall upon Conviction be liable to Transportation for *Fourteen* Years, or to Penal Servitude for any Term not exceeding *Ten* Years and not less than *Four* Years, or to Imprisonment for any Term not exceeding *Three* Years, with or without Hard Labour; and every Person who shall be charged with committing any such Felony or Crime and Offence may be dealt with, indicted, tried, and, if convicted, sentenced, and his Offence may be laid and charged to have been committed, in the Country or Place in which he shall be apprehended or be in Custody. Punishment of Forgery of Signature of Officer of Court or Seal of Court.

IX. It shall be lawful for the Lord Chancellor, with the Concurrence of the Lords Justices, Master of the Rolls, and Vice-Chancellors, or any Two of them, in England, and for the Lord Chancellor and the Master of the Rolls in Ireland, and they are hereby required, from Time to Time to make all such General Rules and Orders to regulate the Practice to be observed in the Execution of this Act or in any Matter relating thereto, including the Scale of Fees to be charged, in the Courts of Chancery in England and Ireland respectively, as in their Judgment shall be necessary and proper; and it shall be lawful for the Judges of the Court of Queen's Bench, Common Pleas, and Exchequer at Westminster and Dublin respectively, or any Eight or more Judges to make Rules for Execution of this Act.

more of them respectively, of whom the Chiefs of the said Courts respectively shall be Three, and they are hereby required, from Time to Time to make all such General Rules and Orders to regulate the Practice to be observed in the Execution of this Act or in any Matter relating thereto, including the Scale of Fees to be charged, in the Courts of Common Law in England and Ireland respectively, as in their Judgments shall be necessary and proper; and it shall be lawful for the Court of Session in Scotland, and the said Court is hereby required, from Time to Time to make such Acts of Sederunt to regulate the Practice to be observed in the Execution of this Act or in any Matter relating thereto, including the Scale of Fees to be charged, in Scotland, as in its Judgment shall be necessary and proper: Provided always, that such Rules, Orders, and Acts of Sederunt respectively shall be laid before both Houses of Parliament within *One Month* from the making thereof, if Parliament be then sitting, or if Parliament be not then sitting within *One Month* from the Commencement of the then next Session of Parliament.

Judges at Westminster and Dublin to issue altered Writs of Execution if necessary.

X. Such altered Writs of Execution may be issued in the said Courts of Common Pleas at Westminster and Dublin respectively as may by the Judges of the said Courts respectively be deemed necessary or expedient for giving Effect to the Provisions of this Act, and in such Forms as the Judges of such Courts respectively shall from Time to Time think fit to order; and any existing Writ of Execution the Form of which shall be in any Manner altered in pursuance of this Act shall nevertheless be of the same Force and Virtue as if no Alteration had been made thereon.

Act not to affect Defendants residing out of Jurisdiction at Commencement of Suit or Action.

XI. Nothing in this Act contained shall operate so as to enable Effect to be given to any Decree, or Order, Judgment, or Decreet made against any Defendant who at the Time of the Commencement of the Suit or Action was residing within the United Kingdom but out of the Jurisdiction of the Court pronouncing such Decree, or Order, Judgment, or Decreet, unless the Mesne Process or the Summons or other Proceeding by which such Suit or Action was commenced in that Court (except in the Case of substituted Service in Ireland, under Section Thirty-four of Sixteen and Seventeen Victoria, Chapter One hundred and thirteen,) shall have been served within its own Jurisdiction on such Defendant.

Short Title of Act.

XII. In citing this Act in any Instrument, Document, or Proceeding it shall be sufficient to use the Expression "The Judgments Execution Act, 1854."

SCHE-

SCHEDULE.

Memorial of Judgment.

On the Day of in the Year of our Lord , in the Court of Queen's Bench [Common Pleas, *or* Exchequer of Pleas] at Westminster [*or* at Dublin] [*or in any Superior Court of Record*], *A.B.*, by the Consideration and Judgment of the said Court, recovered against *C.D.* the Sum of , which in and by the said Court was then and there adjudged to the said *A.B.* [*according to the Form of the Judgment*], whereof the said *C.D.* was convicted, which Judgment still remains in full Force, unrecovered and unsatisfied, and Execution may now be issued thereon.

Dated the Day of 18 .

L. S.

[*Officer of Court's Signature, adding his official Designation.*]

COURT OF SESSION EXTRACT.

Decreet for Payment.

At Edinburgh, the Day of sitting in Judgment, the Lords of Council and Session decerned and ordained, and hereby decern and ordain, Defender to make Payment to Pursuer of the Sum of Sterling [*according to the Form of Judgment*], item of the lawful Interest of the said Sum from and since the Day of till Payment, and of the Sum of of Expenses found due, and of the Sum of Sterling further as the Expense of extracting this Decreet. Extracted by me , Extractor in the Court of Session at Edinburgh, the Day of .

[*Principal or Assistant Extractor or other Officer's Signature, adding his official Designation.*]

SHERIFF COURT EXTRACT.

Decreet for Payment.

At the Day of sitting in Judgment, the Sheriff of decerned and ordained, and hereby decerns and ordains, Defender to make Payment to Pursuer of the Sum of Sterling [*according to the Form of the Judgment*], item of the lawful Interest of the said Sum from and since the Day of till Payment, and of the Sum of of Expenses found due, and of the Sum of Sterling further as the Expense of extracting this Decreet. Extracted by me, , Clerk in the Sheriff Court at this Day of .

[*Sheriff Clerk or other Officer's Signature, adding his official Designation.*]

BURGH COURT EXTRACT.

Decreet for Payment.

At the Day of sitting in Judgment, the Baillies of the Burgh of decerned and ordained, and hereby decern and ordain, Defender to make Payment to Pursuer of the Sum of Sterling [*according to the Form of the Judgment*], item the lawful Interest of said Sum from and since the Day of till Payment, and of the Sum of of Expenses found due, and of the Sum of Sterling further as the Expense of extracting this Decreet. Extracted by me, Clerk in the Burgh Court at this Day of .

[*Town Clerk or other Officer's Signature, adding his official Designation.*]

A

BILL

To enforce in any Part of the United Kingdom Decrees and Orders of the High Court of Chancery in England and Ireland, and of the Commissioners for Sale of Encumbered Estates in Ireland and to allow Execution to issue in any Part of the United Kingdom under Judgments or Decrees obtained in certain Courts of Record in England, Scotland, and Ireland.

(*Prepared and brought in by Mr. Crauford and Mr. Dunlop.*)

Ordered, by The House of Commons, *to be Printed*, 15 *December* 1854.

[Bill 3.]

Under 2 oz.

4 *August* 1855. 18 & 19 Vict.

(Scotland.)

A

BILL

TO

Amend and re-enact certain Provisions of an Act of the Fifty-fourth Year of King George the Third, relating to Judicial Procedure and Securities for Debts in Scotland.

Preamble.

WHEREAS a Bill has been brought into Parliament, intituled "A Bill to consolidate and amend the Laws of Scotland "regarding Insolvency and Bankruptcy," by which it is proposed to repeal the Act passed in the Fifty-fourth Year of the Reign of His Majesty King George the Third, Chapter One hundred and thirty-seven, and it is expedient that certain Provisions therein contained relating to Judicial Procedure and Securities for Debts in Scotland should be amended and re-enacted: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Effect of Arrestments executed as in the Hands of Persons out of Scotland.

I. An Arrestment executed to attach the Effects of a Debtor, as in the Hands of a Person out of Scotland, shall not be held to have interpelled such Person from paying to the original Creditor, unless Proof be made that he, or those having Authority to act for him, were previously in the Knowledge of such Arrestment having been so used.

Court of Session may regulate Judicial Sales of Estates.

II. The Court of Session shall have full Power to make Acts of Sederunt for abridging the Forms of Publication and Citation, and regulating the Proceedings in Processes of Sale, Ranking, and Division, whether at the Instance of Creditors or of apparent Heirs; and in every Case of a Sale under the Authority of the Court of Session it shall be lawful for the Purchaser, at any Term of Whitsunday or Martinmas subsequent to the Term of Payment of the Price, to lodge the Price, with the Interest due upon it, in any Joint Stock Bank of Issue in Scotland, at such Interest as can be procured for it, by doing which, and by giving Notice thereof to the Agent who carried on the Sale, he shall be discharged of the said Price; and further, the Court of Session, upon the Application of any of the Creditors, shall be empowered to make an Order on the Purchaser to lodge the Price and Interest, at any of the said Terms subsequent to the Term of Payment, in One or other of the said Banks, sufficient Intimation being always previously given, both to the Purchaser and to the common Agent for the Creditors, that such Application is made, in order that all Parties may have an Opportunity to object; and in all Cases of Judicial Sales the Lands or other Heritable Property may be brought to actual Sale, so soon as the necessary previous Steps are taken, whether the Ranking be concluded or not, unless the Court, upon Application of any Party concerned, shall find sufficient Cause to delay the Sale.

Sales may precede Ranking.

What Proof of Insolvency necessary for Sales.

III. And whereas Doubts have arisen upon the Construction of an Act made in the Year One thousand six hundred and ninety, Chapter Twenty, intituled "Act anent the Sale of Bankrupt's Lands," in so far as it requires that the common Debtor be found bankrupt and utterly insolvent: Be it enacted, That a Judicial Sale at the Instance of Creditors may in all Cases proceed where the Interest of the Debts and the other annual Burdens exceed the yearly Income of the Property under Sale, or where a Sequestration shall have taken place, without other Proof of Bankruptcy or Insolvency.

Decree of Sale to be held as a General Decree of Adjudication.

IV. When the Estate of a Debtor is brought into the Court of Session by Process of Judicial Sale and Ranking, the Decree of Sale to be pronounced by the Court shall be held as a General Decree of Adjudication in favour of every Creditor who shall afterwards be included in the Decree of Division; and the Effect of such General Decree shall be the same in all Competitions, or Questions of Ranking and Preference, as if it had been pronounced and extracted of the Date of the First Calling of the Process of Sale before the Lord Ordinary in the Outer House, and no separate Adjudication shall be allowed to proceed during the Dependence of a Judicial Sale, and the Court is hereby authorized to settle, by an Act or Acts of Sederunt, in

in what Manner and at what Period or Periods the Principal Sums and bygone Interests of the Debts shall be accumulated, so as to do equal Justice to all concerned: Provided that it shall be competent to any Creditor who is in a Situation to adjudge to carry on the Action of Sale to its Conclusion, although deserted or abandoned by the original Pursuer.

Different Creditors may be joined in One Adjudication.

V. And in order to lessen the Number of Adjudications for Debt, and the Expense to all Parties, and to facilitate the pari passu Preference of Creditors in similar Circumstances, be it enacted, That the Lord Ordinary officiating in the Court of Session before whom the First Process of Adjudication against any Estate for Payment or Security of Debt is called shall ordain Intimation thereof to be made in the Minute Book and on the Wall, in order that any other Creditors of the common Debtor who at the next Calling of the Cause can show that, although they have not executed their Summonses of Adjudication, they are in other respects, by the Nature of the Grounds of Debt, and Steps taken by them, in Condition to proceed in adjudging the common Debtor's Estate, may produce the Instructions of their Debts, with Summonses of Adjudication, libelled and signetted, for the Purpose of their being conjoined in the Decree of Adjudication, *Twenty* Sederunt Days being allowed for such Intimation before the Cause can be called a Second Time; and if any of those Forms shall happen to be omitted, the said Adjudication shall be null and void, without Prejudice to its being brought forward again in more due Form, or still conjoined with any after Adjudication; and without Prejudice to the Validity and Order of Ranking of posterior Adjudications according to the Rules of Law, when any after Process or Processes of Adjudication are brought into Court, the same shall be regulated, as to the Time and Manner of proceeding in them, by an Act or Acts of Sederunt of the Court of Session, so as to provide, as far as Circumstances will admit, for the pari passu Preference of such posterior Adjudications with one another, and to abridge the Number and Expense of such Proceedings; and in all Cases where Penalties for Nonpayment, over and above Performance, are contained in Bonds or other Obligations for Sums of Money, and are made the Subject of Adjudication, or of Demand in any other Shape, it shall be in the Power of the Court to modify and restrict such Penalties, so as not to exceed the real and necessary Expenses incurred in making the Debt effectual.

Mode of rendering an Adjudication effectual.

VI. And in order to fix more clearly in Time coming what Diligence is necessary to make an Adjudication effectual, be it enacted, That the lodging of a Draft Charter and Note in the Office of the Presenter of Signatures, in Terms of the Act passed in the Tenth and Eleventh

Years of the Reign of Her present Majesty, Chapter Fifty-one, when the Holding is of the Crown, or the executing a Charge of Horning against Superiors, when the Holding is of a Subject, and recording a Copy of such Note and an Abstract of such Draft Charter, or such Charge, in the Register of Abbreviates of Adjudications, shall be held in all Time coming as the proper Diligence for the Purpose aforesaid.

Securities for Cash Accounts or Credits.

VII. It shall be lawful for any Person possessed of Lands or other Heritable Property, and desiring to pledge the same in Security of any Sums paid or Balances arising or which may arise upon Cash Accounts or Credits, or by way of Relief to any Persons who may become bound with him for the Payment of such Sums or Balances, although paid or arising posterior to the Date of the Infeftment, to grant Heritable Securities accordingly upon his Lands or other Heritable Property, containing Procuratory of Resignation and Precept of Sasine, for infefting any Bank or Bankers or other Persons who shall agree to give such Cash Accounts or Credits, or for infefting such Persons as shall become Cautioners for him, or jointly bound with him in such Cash Accounts or Credits: Provided always, that the Principal and Interest which may become due upon such Cash Accounts or Credits shall be limited to a certain definite Sum, to be specified in the Security, such definite Sum not exceeding the Amount of the Principal Sum, and *Three* Years Interest thereon at the Rate of *Five* Pounds per Centum: Provided also, that it shall be lawful for the Person to whom any such Cash Account or Credit is granted to operate upon the same by drawing out and paying in such Sums from Time to Time as the Parties shall settle between themselves, and that the Sasines or Infeftments taken upon the said Heritable Securities shall be equally valid and effectual as if the whole Sums advanced upon such Cash Account or Credit had been paid prior to the Date of the Sasine or Infeftment taken thereon, and that any such Heritable Security shall remain and subsist to the Extent of the Sum limited, or any lesser Sum, until the Cash Account or Credit is finally closed, and the Balance paid up and discharged, and the Sasine or Infeftment renounced.

A

BILL

To amend and re-enact certain Provisions of an Act of the Fifty-fourth Year of King George the Third, relating to Judicial Procedure and Securities for Debts in Scotland.

(*Prepared and brought in by Viscount Duncan and the Lord Advocate.*)

Ordered, by The House of Commons, *to be Printed* 4 *August* 1855.

[Bill 289.]

Under 1 *oz.*

Jurisdiction of the Stannary Court Amendment Bill.

ARRANGEMENT OF CLAUSES.

Process in case of Mines of mixed Minerals, &c.; Sect. 1.
Interpretation Clause; 2.
Suits by Pursers, &c. for Contribution against non-resident Shareholders; 3.
Plaintiff may join several Adventurers in One Petition, &c.; 4.
Suits by Creditors for Payment of Debts of Adventurers in a Mine; 5.
Suits for Account between Adventurers; 6.
Process in Suits against non-resident Defendants; 7.
Service of Process out of Stannaries; 8.
Execution of Judgments out of Stannaries in Common Law Suits; 9.
Execution of Decrees, &c. in Equity Suits in or out of Stannaries; 10.
Interpleader in Equity; 11.
Adjudication to be final; 12.
Upon Application of Registrar, &c., Action may be stayed; 13.
Freehold, &c. not to be adjudicated upon without Consent; 14.
Ejectment in Stannaries; 15.
Summary Suits for small Debts extended to Torts; 16.
Removal of certain Causes from the County Court; 17.
Pleading to Jurisdiction; 18.
Power of Registrar on interlocutory Applications; 19.
Arbitration Clause; 20.
Power of Vice-Warden to sit out of Truro for certain Purposes; 21.
Production of Lists of Shareholders and Cost Books in Mines; 22.
Power to make or adopt Rules, Orders, and Practice of Superior Courts; 23.
Provision for Illness or accidental Absence of Warden; 24.
Allowance on auditing the Registrar's Accounts [Proposed to be added].
Regulation of Appeals; 25.
Levying and Application of Fines, &c.; 26.
Punishment of Frauds by Miners in Devonshire; 27.
Vice-Warden to be qualified to act as Justice of the Peace; 28.
Parts of Acts repealed; 29.
Law Clerk of the Duchy to act as Attorney or Solicitor in all Courts; 30.

A

B I L L

INTITULED

An Act to amend and extend the Jurisdiction of the Stannary Court.

The Clause printed in Red Ink is proposed to be added in Committee.

WHEREAS it is desirable to explain and amend the Acts heretofore passed for the Administration of Justice in the Stannaries, and to make the Jurisdiction and Process of the Court of the Vice-Warden more efficient, and to regulate Appeals from the Vice-Warden: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. Where any Mine or Sett within the Stannaries shall be worked by the same Adventurers not only for metallic Minerals within the Jurisdiction of the Court, but also for non-metallic Minerals found in the same Mine or Sett, or intermixed with metallic Minerals, the entire Mine and Works and Products thereof shall be taken to be within the Cognizance of the Vice-Warden as if the same had wholly consisted of metallic Minerals, and the Process of the Court shall extend to and be exercised over the same, and all the Machinery and Materials thereon, as in the Case of Mines of metallic Minerals, and the Mineral called Plumbago or Black Lead is hereby declared to be a metallic Mineral. Process in case of Mines of mixed Minerals.

Interpretation Clause.

II. The Words "Mine" and "Mineral" and "Miner," when used in this Act, or in any Pleadings, Process, or Proceedings in the said Court, shall, unless otherwise explained or qualified, be respectively presumed and taken to mean a metallic Mine or Mineral within the Jurisdiction of the said Court, and a Miner in some Mine, Work, or Adventure within the same Jurisdiction, and having Privilege to sue or be sued in the said Court; and the Words "County Court" shall in this Act mean any Court established under the Provisions of the Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, and also the Court held under the Provisions of "The London (City) Small Debts Extension Act, 1852."

Suit by Pursers, &c. for Contribution against non-resident Shareholders.

III. In Suits on the Equity Side of the Court of the Vice-Warden, prosecuted according to Custom by the Purser or other principal Agent of the Adventurers in a Mine in the Stannaries against an Adventurer or his personal Representatives for Contribution to Calls or to the Expenses of working such Mine or Adventure, it shall be lawful for the Vice-Warden, upon special Application in that Behalf, to order that Service of Process on the Defendant in any Part of England or Wales to compel Appearance and Answer shall be sufficient Service, although he may not then be personally within the Jurisdiction of the said Court; and upon Proof of such Service and the Default of the Defendant to appear and answer the Petition within the Time prefixed by the Summons, it shall be lawful for the Plaintiff to enter an Appearance for the Defendant, and thereupon such Proceedings shall be had in the Suit, and such Orders and Decree made, as if the Process had been duly served on the Defendant within the Jurisdiction of the Court; and if upon Sale of the Shares or Interest of the Defendant in the Mine or Adventure according to Custom the Proceeds of the Sale shall be insufficient to satisfy the Debt of the Defendant, Costs of Suit, and Expenses of Sale, it shall be lawful to levy the same or the Residue thereof in the Manner herein-after provided for enforcing Decrees and Orders on the Equity Side of the Court; and after Appearance so entered, all Notices, Orders, Summonses, Warrants, and other Process in the Suit shall be deemed to be well served if served on the Defendant wheresoever he shall then be in England or Wales.

Plaintiff may join several Adventurers in One Petition, &c.

IV. In all such Suits against Adventurers for Contribution, it shall be lawful for the Plaintiff to join several Adventurers in One Petition for Recovery of their several Contributions, and for the Court to make One Decree for Payment and One Order for Sale of Shares, and to enforce Payment by separate Process of Execution against each Defendant, if need be; and where the Defendants or any of them shall put in separate Answers, it shall be lawful for the Court to direct that all

all or any of the Matters in issue be heard and tried at the same Time; provided that nothing herein contained shall be construed to abridge or affect the Right of the Plaintiff in such a Suit, as now exercised, to proceed against Adventurers residing or being out of the Jurisdiction of the Court upon a Service on the Mine itself, substituted by Order of the Vice-Warden for personal Service; but in such Case the Plaintiff shall not be entitled to any other or further Remedy for Recovery of the Arrears of Contribution in the Vice-Warden's Court from a Defendant so served than he had before the passing of this Act.

Suits by Creditors for Payment of Debts of Adventurers in a Mine.

V. In Suits on the Equity Side of the said Court by Creditors prosecuted according to Custom against the Purser or other principal Agent of the Adventurers, or against one or more of the Adventurers in a Mine in the Stannaries, to enforce Payment of their Demands by Sale of the Ores, Machinery, Materials, and Effects for the Time being belonging to the Adventurers, and being upon or about the Mine or fraudulently removed therefrom, it shall be lawful for the Vice-Warden, upon special Application in that Behalf, to order that Service of Process on the Defendant in any Part of England or Wales to compel Appearance and Answer shall be sufficient Service, although he may not then be personally within the Jurisdiction of the said Court; and upon Proof of such Service and of the Default of the Defendant to appear and answer the Petition within the Time prefixed by the Court, it shall be lawful for the Plaintiff to enter an Appearance for the Defendant, and thereupon such Proceedings shall be had in the Suit, and such Decrees and Orders made, as if the Process had been duly served on the Defendant within the Jurisdiction of the said Court; and any Adventurer shall, upon Application to the Vice-Warden or Registrar, be let in to defend the Suit, either separately or jointly with the other Defendant, within Twenty Days after the filing of the Petition, or within such other Time as the Vice-Warden shall allow; and where several Creditors of the same Adventurers shall sue separately for Payment and Sale, the Vice-Warden shall have Power to consolidate the Suits in such Way as shall seem to him necessary or expedient for the convenient Trial of the Matters in issue in the said Causes and for the saving of Expense to the Suitors; and all further Notices, Orders, Summonses, Warrants, and other Process in the Cause or consolidated Causes shall be deemed to be well served if served on the Defendant in any Part of England or Wales; and if upon Sale of the Ores, Machinery, Materials, and Effects in any such Suit the Proceeds of the Sale shall be found insufficient to satisfy the Debts of the Plaintiff or Plaintiffs and of the other Creditors who shall be admitted according to Custom to prove their Debts before the Registrar of the Court and the Costs of Suit and Expenses of

Sale, it shall be lawful for the Registrar, at the Instance of the Plaintiff in the Suit or of any Creditor so admitted to Proof, and by Permission of the Vice-Warden on an Application by the Plaintiff or Creditor stating the Amount of Debts remaining unsatisfied and the Number of Adventurers, whether within or out of the Jurisdiction, so far as they can be ascertained by the Applicant, to proceed to apportion the Amount of Debts, Costs, and Expenses remaining unsatisfied rateably among all the Adventurers or Persons liable to contribute to the Payment of the said Debts, whether they be within the Jurisdiction or elsewhere, according to the Number of Shares or the Interest of each in the said Mine or Adventure; and it shall be competent for the Registrar to call for, and by Summons or Subpœna under the Seal of the Court to enforce, Production before him of the Cost Book or Books, Lists of Shareholders, Accounts, Bills, Resolutions of the Adventurers or Committees thereof, and all other Books, Papers, and Documents of the Adventurers relating to the Mine or the Management thereof, and by like Summons or Subpœna to call before him and to examine the Purser, Managers, or other principal Agents of the Adventurers, whether the several Documents above mentioned or the Persons so called before him be within the Stannaries or elsewhere in any Part of England or Wales, and to make a List of all the Persons so liable to contribute at the Time of filing the Petition or their personal Representatives, with the Amount apportioned upon each; and when the Registrar shall have made such List and Apportionment, a Copy of the List shall be sent to the Account House of the Mine, or the principal Office or Place of Business of the Adventurers, and Notice shall be served on each Person named in the List of the Sum charged upon him, and a reasonable Time, to be fixed by the Registrar according to the Circumstances of each Case, shall be allowed to him to dispute the Apportionment before the Registrar, who shall hear and determine all Objections thereto; and when the List shall have been finally settled by the Registrar, he shall report thereon generally to the Vice-Warden, and if the Report shall be confirmed upon exception or otherwise there shall be a Decree for Payment in conformity with the said Report, and the several Sums so apportioned and charged upon each Contributory shall in and by the said Decree be made payable to the Registrar, who shall forthwith demand Payment thereof, and thereupon it shall be lawful for the said Plaintiff or Creditor, at whose Instance the Apportionment shall have been made and Decree obtained, after such Demand and a Refusal of Payment, to proceed to levy from each Contributory in the said List the Sum therein charged upon him in the Manner herein-after provided for enforcing Decrees and Orders on the Equity Side of the said Court, and for this Purpose the said Plaintiff or Creditor shall be deemed to be a Party entitled to the Benefit of the

the said Decree within the Intent and Meaning of the said Provision, and the Sums received or levied shall be forthwith paid over by him to the Registrar, who shall deduct therefrom and allow to the Party who shall have so received or levied the same his reasonable Costs and Expenses in and about the said Apportionment and obtaining the said Decree and levying the Monies so payable under it, and shall distribute the Residue rateably among the several Creditors in the Proportion of the Debts remaining due to them respectively: Provided always, that all Notices and Demands required by this Act to be served on or made upon Adventurers and other Persons named in the Registrar's List as Contributories shall be deemed to be sufficiently served if sent by Post prepaid, addressed to the Party at his last known Address; unless the Registrar shall order that the same shall be served in some other Way, in which Case Service shall not be sufficient unless it be in conformity with such Order.

Suits for Account between Adventurers.

VI. In Suits on the Equity Side of the said Court for an Account as between Adventurers in Mines in the Stannaries, it shall be lawful for the Court, upon special Application in that Behalf, to order that Service of Process in any Part of England and Wales to compel Appearance and Answer shall be good Service on any Adventurers or their personal Representatives, or others who may be necessary Parties to such Suit, although they may not then be personally within the Jurisdiction of the said Court; and upon Proof of such Service, and of the Default of any Person so served to appear and answer the Petition within the Time prefixed by the Summons, it shall be lawful for the Plaintiff or Plaintiffs to enter Appearances for the Persons so served, and thereupon such Proceedings shall be had in the Suit, and such Orders or Decrees made, as if the Process had been duly served within the Jurisdiction of the Court, and the Orders and Decrees so made shall be binding on all Adventurers and others so served; and if the final Decree shall be for Payment of Money or Costs, Payment thereof shall be enforced in the Manner herein-after provided; and after Appearance so entered all Notices, Orders, Summonses, Warrants, and other Process in the Suit shall be deemed to be well served if served in any Part of England or Wales; and in all such Suits where any Adventurer holding a Share in a Mine or Adventure cannot be found, or is deceased and no one can be found who has administered to his Estate and Effects, then it shall be sufficient by Leave of the Court to substitute for regular Service a Service on the Mine in the usual Way, or at the principal Office or House of Business of the Adventurers, whether within the Stannaries or elsewhere in England or Wales, and Notice of such substituted Service shall be addressed by Post to the last known Address of the said Adventurer, except in case of his Decease, and thereupon Decrees or Orders of the

Court in the Suit shall be binding on such Adventurer or his Representatives, and those claiming under him, as in case of regular Service.

Process in Suits against non-resident Defendants.

VII. In Suits commenced on the Equity Side of the said Court for Causes relating to Mines and Minerals in the Stannaries, or to Shares, Interests, or Adventures therein, whereof the said Court has cognizance, in which it may be necessary or expedient to sue or to join as Defendant a Person holding or claiming to hold any Share or Interest in an Adventure in Mines or Minerals worked within the Stannaries, or being an Agent of the said Adventurers, who cannot be found within the Jurisdiction of the said Court; and in all Cases where any Person who shall have commenced any Suit or entered an Appearance in any Suit in the said Court, or shall have come in as Creditor, Claimant, or Purchaser, or otherwise submitted to the Jurisdiction thereof, cannot, by reason of his Person or Goods being out of the said Jurisdiction, be made amenable to the Process of the Court; and in all Cases where any Party to such Suit shall have died or become Bankrupt or Insolvent, and his personal Representatives or Assignees, or any of them, who may be necessary Parties to the Continuance of the Suit, shall be out of the said Jurisdiction, it shall be lawful for the Court, upon special Application in that Behalf, to order that Service of any Notice, Order, Summons, Warrant, or other Process shall be deemed good Service on any such Person, Representative, or Assignee respectively in any Part of England or Wales, and, if need be, to order an Appearance to be entered for the Person served; and thereupon it shall be lawful to take such Proceedings and to make such Order or Decree as if the Service had been made within the said Jurisdiction.

Service of Process out of Stannaries.

VIII. Where Service of Notices, Orders, Summonses, Warrants, or other Process in Causes pending in the Vice-Warden's Court may, under this Act or otherwise, lawfully be made in a Place out of the Jurisdiction of the said Court, it shall be lawful for the said Court, or for Parties to Suits therein, to send the same to the High Bailiff of the County Court in the District of which such Place may be, together with the lawful Fees payable in like Cases for Service of similar Process in the County Court, and thereupon the High Bailiff shall serve or cause to be served the same, as if it had been issued out of a County Court, and such Service shall or may be proved as in case of County Court Process.

Execution of Judgment out of Stannaries.

With respect to the Execution of Judgments and Decrees of the Court of the Vice-Warden, be it enacted as follows:

In Common Law Suits.

IX. In Actions commenced therein on the Common Law Side of the Court, where Judgment shall have been duly recovered in a Cause

Cause whereof the said Court has cognizance, but which cannot be conveniently or effectually enforced by the ordinary Process of that Court within the Jurisdiction thereof, it shall be lawful for any One of the Superior Courts of Common Law at Westminster, or for any Judge thereof, upon Application of the Party entitled to the Benefit of such Judgment, and Production of a Certificate from the Registrar of the Court of the Vice-Warden under the Seal of the Court of the Judgment so recovered, and a satisfactory Affidavit of the Ground of the Application, to cause Process to issue and Proceedings to be taken for the Recovery of the Amount due on the Judgment, including the Costs of the Certificate and of the Application, in the same Manner as upon a like Judgment recovered in an Action commenced in the Superior Court; and it shall not be necessary for this Purpose, or for any other Purpose, that the Record of any Judgment in the Vice-Warden's Court shall be engrossed on Parchment or enrolled; and where the Debt or Damages recovered by Judgment of the Court of the Vice-Warden, or sought to be recovered in Actions commenced either by Writ, Plaint, or other legal Procedure, according to the Practice of the said Court, shall not exceed Fifty Pounds, and the Judgment of the Court cannot be conveniently or effectually enforced within the Jurisdiction of the said Court, it shall be lawful for the Party entitled to the Benefit of the Judgment to sue out a Writ of Execution, and to send the same to the Clerk of any County Court within the District of which the Judgment Debtor or his Goods and Chattels shall then be or be believed to be, with a Warrant thereto annexed, under the Hand of the Registrar and Seal of the Court of the Vice-Warden, requiring Execution of the same, and with the Fees lawfully payable in like Cases for Execution of such a Writ in the County Court; and thereupon the said Clerk shall cause the same to be executed by the High Bailiff of the County Court in due course of Law, as if the same had been issued by the Court of which he is High Bailiff, and the said Bailiff shall have the same Powers and Protection as if he were executing the Process of such County Court, and shall make his Return to the Clerk of the said Court, and pay over to him the Amount levied, if any; and the Clerk shall forthwith certify the said Return, and remit the Amount so paid, less the Costs of making such Levy according to the Practice of the County Courts, to the Party prosecuting the Writ; and the Judge of the said County Court shall have and exercise the same Power and Authority over the Clerk and High Bailiff, and shall have Power to adjudicate upon Summons of Interpleader in case of adverse Claims to Goods taken in Execution, as if the Execution had been under the Warrant of his own Court.

Execution of Decrees, &c. in Equity Suits in or out of Stannaries.

X. All Decrees and Orders made in Causes on the Equity Side of the Court of the Vice-Warden, whereof the said Court has cognizance, for Payment of any Sum or Sums of Money, Costs, Charges, or Expenses, shall and may be enforced by a Writ or Writs of Fieri facias or Capias, within the Limits of the Jurisdiction of the said Court, which Writs shall be in the Form, as near as may be, of the like Writs issued to enforce Decrees or Orders for Payment of Money made by the High Court of Chancery, and be executed in like Manner by the Bailiffs of the Vice-Warden's Court; and where any Decrees or Orders, whether for Payment of Money or otherwise, cannot be conveniently or effectually enforced by the ordinary Process of the Court of the Vice-Warden within the Jurisdiction thereof, it shall be lawful for the High Court of Chancery, or for any Judge thereof, sitting in Court or at Chambers, upon the Application of a Party entitled to the Benefit of such Decree or Order, and Production of a Certificate from the Registrar of the Court of the Vice-Warden under the Seal of the Court of the said Decree or Order, or of such Part thereof as cannot be so enforced as aforesaid, and a satisfactory Affidavit of the Ground of the Application, to make the said Decree or Order, or so much thereof as cannot be enforced, a Decree or Order of the High Court of Chancery; and thereupon such Decree or Order, or such Part thereof as aforesaid, shall and may be enforced by such Proceedings and Writs as would or might have been taken or issued if the same had been originally made by the High Court of Chancery, and all the reasonable Costs of and consequent upon such Certificate and Application shall and may be recovered as if the same had been and were Part of such Decree or Order; and where the said Decree or Order of the Vice-Warden is for Payment of a Sum or Sums of Money not exceeding in the whole the Sum of Fifty Pounds, it shall be lawful for the Party entitled to the Benefit of the said Decree or Order to enforce Payment thereof in the Manner herein-before provided in the Case of a Judgment on the Common Law Side of the Court for Recovery of a Debt or Damages not exceeding the said Sum of Fifty Pounds: Provided that nothing in this Act contained shall affect or prejudice the Power of the Vice-Warden to enforce Decrees or Orders by Process of Attachment within the Jurisdiction of his Court where the same may be now lawfully exercised, or to order the Sale of Shares or Interests in Mines or Adventures in Cases wherein such Sale may now be made by Order of the said Court.

Interpleader in Equity

XI. When any Claim is made to, or in respect of, any Goods and Chattels, or the Proceeds or Value thereof, sold or intended to be sold under a customary Decree of Sale in a Mining Creditor's Suit by any Landlord for Rent or other distrainable Demand, or by any other

Person

Person not being a Party to the Suit, it shall be lawful for the Vice-Warden to call upon the Claimant by Rule or Order of the Court to appear in Person or by his Attorney or Agent in support of the same either before the Vice-Warden himself or before the Registrar, and to state the Nature and Particulars of his Claim, who shall thereupon hear the Allegations and receive the Proofs offered, as well by the Claimant as by the Plaintiff in the Suit, and, if the Claimant and Plaintiff shall agree on the Facts of the Case, shall then adjudicate upon the Claim; and if the said Parties shall not so agree, then the disputed Facts shall be ascertained by an Action or Issue to be tried in the Vice-Warden's Court, in such Form as the Vice-Warden shall direct, and the Vice-Warden shall then adjudicate upon the Claim; or the Vice-Warden or Registrar shall have Power, with the Consent of the Parties so before him, their Counsel, Attornies, or Agents, to adjudicate upon and dispose of the Claim in a summary Manner: Provided that in all Cases, except in case of summary Adjudication by Consent, it shall be competent for the Registrar, at the Request of the said Parties, or either of them, to refer the Decision of the Case to the Vice-Warden; and the Vice-Warden shall in all Cases of such Interpleader make such other Rules and Orders in the Matter of the said Claim or Adjudication as between the said Parties in respect thereof, or of the Costs of the Proceedings, as to him shall seem fit and reasonable.

Adjudication to be final.

XII. The Adjudication of such Claim, either upon hearing or in default of the Appearance of the Claimant, shall be final and conclusive between the said Parties and all Persons claiming by, from, or under them; and the Adjudication, and all Rules and Orders made thereupon, shall have the Force and Effect of Judgments or Decrees of the Court, and be enforced accordingly.

Upon Application by Registrar, &c., Action may be stayed

XIII. Upon Application by the Registrar, Bailiff, or other Officer of the Court, or of the Plaintiff in the original Suit, and Certificate by the Registrar of the Proceedings in the Court of the Vice-Warden, and Proof of the Service on such Claimant of the Rule or Order calling upon him to appear in support of his Claim, any Action that shall have been or shall be brought in any Superior or Inferior Court in respect of such Claim against any Officer of the Court or Person acting under his Direction, or against the Plaintiff in the original Suit, may be stayed by the said Court, or any Judge thereof, who shall have Power to make such Rules and Orders touching the Costs of the Action so stayed as shall seem fit and reasonable.

Freehold, &c. not to be adjudicated

XIV. Provided that nothing herein contained shall authorize the Vice-Warden or Registrar to adjudicate upon any Claim, either on

upon without Consent.

the Common Law or Equity Side of the Court, touching the Freehold or Inheritance of any Person, except by Consent of the Parties before the Court, and as between and against themselves and those claiming under them.

Ejectment in the Stannaries.

XV. It shall be lawful for the Vice-Warden to entertain Jurisdiction in Suits for Recovery of the Possession of Mines within the Stannaries, and of Buildings, Machinery, Works, and Waters annexed thereto and occupied therewith, on the Ground of Breach of Condition, Determination of the Sett or Lease, or other lawful or customary Cause of Forfeiture, and also to prohibit the working of any Mine in a Manner contrary to Custom or Covenant by Injunction in Cases and under Circumstances in which the High Court of Chancery or the Courts of Common Law at Westminster may now by Law enjoin; and the Suit for Recovery of Possession shall be by Action of Ejectment on the Common Law Side of the Court, according to the Forms and Procedure established by the Common Law Procedure Act, 1852, so far as they are or can be made applicable to the Vice-Warden's Court; and it shall be lawful for the Vice-Warden to cause all necessary Writs to be served on the Persons in possession or entitled to defend, wheresoever they may then be in England or Wales, and to adopt any of the General Rules and Orders of the said Superior Courts promulgated from Time to Time and applicable to the Action of Ejectment with such Variations as the Nature and Constitution of the Court shall render necessary; and all Constables and Peace Officers within their several Jurisdictions shall be aiding the Bailiffs of the Court in the Execution of the Writ or Writs awarded for Recovery of the Possession and Costs, and in enforcing Process of Attachment in the Case of Breach of Injunction; provided that nothing herein contained shall authorize the Vice-Warden to entertain any Question touching the Freehold or Inheritance of any Person except by such Consent and as between and against such Parties as aforesaid.

Summary Suits for small Debts extended to Torts.

XVI. Whereas Actions for Debts not exceeding Fifty Pounds are now prosecuted summarily, and tried by Five Jurors only on the Common Law Side of the said Court, and it is expedient that the like Process and Trial be extended to other Actions, whether for Debt or Damages: Be it therefore enacted, That all or any Actions for Debts or Damages not exceeding Fifty Pounds, whether founded on Tort or Contract, for Causes within the Jurisdiction and Cognizance of the said Court, shall be prosecuted in a summary Way by Plaint, and tried by a Jury of Five Jurors, as is now used in Actions for small Debts in the said Court, except in Cases where the Vice-Warden shall permit or direct such Action to be by Writ of Summons; and for the Purpose of improving the Procedure in such Actions by Plaint, it shall be lawful for

for the Vice-Warden to make and enforce Rules and Forms for Procedure, Practice, Pleading, and Taxation of Costs, and to adopt all or any of the Rules and Forms now or hereafter legally in force and use in the County Courts, with such Alterations as may be necessary to adapt them to the Jurisdiction of the Vice-Warden's Court.

Removal of certain Causes from the County Court.

XVII. Where any Cause touching the Usage or Customs of Mining or of Miners, or the Principles and Incidents of Cost Book Partnership or of Cost Book Mines, or the Privileges and Franchises of Tinners or Miners, or the Effect and Operation of Setts or Licences to mine or Contracts for the Sale or Transfer of Shares in Mines, or the Custom of Tin Bounds or the Nature and Incidents thereof, shall be pending before One of the Judges of the County Courts within the Stannaries, the said Judge shall, at the Request of either Party, remit the said Cause for Trial or Hearing before the Court of the Vice-Warden, who shall thereupon have all the same Powers and Jurisdiction with respect to the Cause as if it had been commenced by Plaint in the Court of the Vice-Warden, and shall be subject to the like Appeal as in other Causes so commenced.

Pleading to Jurisdiction.

XVIII. Demurrers for Matter of Form only shall not be permitted in the Court of the Vice-Warden, and on the Equity Side of the said Court no Demurrers or Pleas shall be permitted except Demurrers for that the Suit or Subject thereof is not within the Cognizance or Jurisdiction of the said Court; and if the Objection of Want of Jurisdiction shall not be raised by Demurrer or Plea within Ten Days after Appearance in a Suit on the Equity Side, or within Ten Days after Notice of Declaration or Service of a Copy of Plaint on the Common Law Side, no Question as to the Jurisdiction of the Court shall thereafter be raised, except in Cases where the Want of Jurisdiction will disable the Court from doing full and substantial Justice between the Parties to the Suit; and the Mode of filing or serving Demurrers or Pleas to the Jurisdiction shall be regulated by general Rules and Orders made as herein-after provided, and so much of Section Thirteen of the Act passed in the Session of Parliament holden in the Sixth and Seventh Years of the Reign of William the Fourth, Chapter One hundred and six, as relates to Pleas and Demurrers to the Jurisdiction, and so much of the Act passed in the Sixteenth Year of the Reign of Charles the First, Chapter Fifteen, as relates to the Form and Manner of objecting to the Jurisdiction of the Stannary Courts, or is at variance with this Act, shall be and is hereby repealed, except as to Suits commenced before the passing of this Act.

Power of Registrar on Interlocutory Applications.

XIX. The Registrar of the Court of the Vice-Warden shall have Power at all Times before Hearing or Trial, either on the Common Law or Equity Side of the said Court, to make Orders for amending the Proceedings or Pleadings upon Terms or unconditionally, to hear and determine Applications for further Time, Objections for Defect of Form, or on the Ground of Uncertainty, Obscurity, Prolixity, or Multifariousness, and to make Rules and Orders in all such other interlocutory Matters as shall be submitted or referred to him by Consent of Parties, or which he may be directed or empowered to hear and determine or deal with, by any General Rules or Orders made under the Authority of this Act; and the said several Matters shall be heard and determined ore tenus in a summary Way, subject however to Appeal by Motion to the Vice-Warden, either ore tenus or on a written Statement agreed upon by the Parties or drawn up by the Registrar and submitted to the Vice-Warden.

Arbitration Clause.

XX. The Vice-Warden shall have Power, with the Consent of the Parties to any Suit, their Counsel, Attornies, or Solicitors at Law or in Equity, to order the same, with or without other Matters in dispute, to be referred to Arbitration, or to act as such Arbitrator himself, at the Request of the said Parties, in such Manner and on such Terms and Conditions as he shall think fit, with all the usual Powers of Arbitrators, under References by Order of the Superior Courts; and such Reference shall not be revocable by either Party except by Consent of the Court; and the Vice-Warden shall have Power to set aside the Award for Cause shown, or to refer the Case back again to the Arbitrator, and the final Award made in pursuance of such Reference shall, on the Motion of either Party, be entered as the Decree or Order of the Court, or Judgment shall be entered in pursuance of such Award, as the Case may be, and the Decree, Order, or Judgment so entered shall thereupon be enforced as if the same had been made or entered in the ordinary Course of Procedure at Law or in Equity, as the Case may be.

Power of Vice-Warden to sit out of Truro for certain Purposes.

XXI. It shall be lawful for the Vice-Warden, at the Request of one or some of the Parties to a Suit, and subject to such Terms as to Costs or otherwise as he may think fit and reasonable, to adjourn or hold his Court to or at any Place within the Stannaries for the Purpose of hearing Witnesses or taking Evidence; and in such Cases it shall not be necessary for the Registrar or Secretary of the Vice-Warden or Prothonotary of the Court to be in attendance at the Sittings of the Vice-Warden at such Place.

Production of Lists of Shareholders in Mines.

XXII. In all Cases of Mines in the Stannaries worked by Partnerships or Companies of Adventurers professing to adopt or to be constituted

constituted on the Cost Book System or Principle, it shall be lawful for the Vice-Warden, upon Application of any Adventurer or Shareholder in the Mine or Creditor of the Adventurers, founded on sufficient Grounds verified by Affidavit, although no Suit be pending touching the said Mine or Adventurers, to compel Production by Rule or Order of a List or Lists of all Adventurers or Shareholders for the Time being by the Purser or other principal Agent or Manager, Clerk, or Secretary of the Mine, in whose Custody or Power the same may be, and whether such Person be then within the Jurisdiction of the Court or elsewhere, for Inspection of the Applicant; and if such List shall not be produced, showing truly the Name, Address, and Number of Shares of each and every Adventurer or Shareholder, and the Time when each became an Adventurer or Shareholder, so far as the same are known or can be ascertained, then it shall be lawful for the Vice-Warden at his Discretion, after Fourteen Days previous Notice of his Intention served on the Person so ordered to produce, and also affixed to the Account House of the Mine, or left at the principal Office or House of Business of the Adventurers within the Stannaries or elsewhere, to declare that the Partnership or Company is not carried on or constituted on the Cost Book System or Principle; and the said Partnership or Company shall thereupon no longer be deemed or taken to be for any Purpose a Partnership, Association, or Company within the Exemption of Mining Partnerships contained in the Act passed in the present Reign, entitled "An Act "for the Registration, Incorporation, and Regulation of Joint Stock "Companies," or within the conditional Exemption contained in the Joint Stock Companies winding-up Amendment Act, 1849; and in all Cases of like Mines and Partnerships, it shall be lawful for the Vice-Warden, upon Application of any Adventurer or Shareholder founded on sufficient Grounds and Affidavit, and although no Suit be then pending, to make a Rule or Order for Production of the Cost Books of the Mine, List of Adventurers, and such other Books and Documents relating to the Mine and Management thereof as the Vice-Warden shall think proper, for Inspection of such Applicant, and to enforce such Rule or Order by Attachment within the Stannaries, or by causing the same to be made a Rule or Order of one of the Superior Courts at Westminster under the Statute in such Case made and provided. 6 & 7 W. 4. c. 106. s. 12.

XXIII. Whereas the Power of the Vice-Warden to make general Rules or Orders of Court is insufficient, and it is doubtful whether it extends to the Adoption of Improvements in the Procedure of the Superior Courts recently made by Parliament, or of Rules and Orders made from Time to Time by the Superior Courts by the Authority of Parliament: Be it therefore enacted, That it shall be lawful for the Vice-Warden to make from Time to Time new Rules and Orders touching

Power to make or adopt Rules, Orders, and Practice of Superior Courts of Law or Equity.

touching the Procedure, Practice, Pleadings, Regulation of Court and Taxation of Costs, both on the Common Law and Equity Side of the said Court, and all other Business of the said Court, and to prescribe Forms for carrying into effect such new Rules and Orders, and also existing Rules and Orders not varied or repealed, and also to adopt all or any of the Provisions contained in the Act passed in the Session of Parliament holden in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Eighty-six, and in the Common Law Procedure Act, 1852, and in the Common Law Procedure Act, 1854, and all or any of the Rules and Orders from Time to Time made and promulgated by the Superior Courts by and under the Authority of the said Acts or otherwise, with such Modifications as may be necessary to adapt them to the Jurisdiction of the Vice-Warden's Court; provided that no such Rules, Orders, Forms, or Provisions shall be made, prescribed, or adopted without the Consent and Approval of One of the Judges of the Superior Courts of Common Law at Westminster in the Case of Rules, Forms, and Provisions applicable to the Common Law Side of the said Court, or of the Lord Chancellor or One of the Judges of the High Court of Chancery in the Case of Orders, Forms, and Provisions applicable to the Equity Side of the said Court; provided also, that nothing herein contained shall be construed to abridge or restrain any existing Power of the Vice-Warden to make Rules or Orders in Cases not requiring the Consent or Approval of any Judge of the Superior Courts.

Provision for Illness or accidental Absence of Vice-Warden.

XXIV. When the Vice-Warden shall be prevented by Illness or Accident from attending and sitting on the Day appointed for such Sitting, it shall not be necessary to send any Statement to the Lord Warden of the Cause of his Non-attendance or of the Adjournment of the Court, unless the Vice-Warden shall be, or it shall appear to him probable that he will be, thereby prevented from sitting within the Period required by Law; and if, for the Reason aforesaid, it shall be necessary to appoint a Deputy, it shall be lawful for the Vice-Warden to appoint such Deputy, qualified as now required by Law, for the then next Sittings only, provided the Cause alleged in such Statement be allowed by the Lord Warden to be sufficient and the Person so named as Deputy be approved by him; and whenever it may be desirable to alter the Time fixed for holding the Court, it shall be lawful for the Vice-Warden to accelerate or postpone the holding thereof, provided that such Alteration be duly notified and published in the usual Way, and the holding be not postponed beyond the Third Calendar Month next after the Calendar Month in which the last preceding Sittings were held, and no Irregularity in the Time of holding any Court or Sitting shall vitiate or avoid the Proceedings at such Court or Sitting.

And,

Allowances to be made on auditing the Registrar's Accounts.

And, because Doubts may arise as to the Allowance of certain Disbursements and Payment of Arrears of Salaries on the auditing of the Registrar's Accounts, be it enacted, That upon such Audit there shall be allowed annually, in respect of the Expenses of advertising and holding Courts in Cornwall, summoning Jurors, enforcing Payment of Assessments, lighting, warming, cleaning, watching, and keeping the Court and Offices there, providing Furniture, Books, Stationery, and Printing, and such additional Accommodation or occasional Assistance in the Office as the Vice-Warden shall consider reasonable or necessary, a Sum not exceeding the Sum of One hundred and twenty Pounds; provided that if hereafter the Expenses of the Sittings and Court shall become larger by reason of increased Business, more frequent Sittings, or other Causes, it shall be competent for the Council of the Prince of Wales, or special Commissioners for managing the Affairs of the Duchy for the Time being, to authorize a larger Allowance, not exceeding in the whole Two Third Parts of the Fees of Court that shall come into the Hands of the Registrar during each Year: And whereas it has happened, and may again happen, that the Monies arising from Fees and Assessments, and available for the Payment of the official Salaries charged on them, have been or may be insufficient to pay the current Salaries when the same become due, Be it enacted, That when the Registrar shall account to the Vice-Warden for such Monies, there shall be allowed to him thereout not only the Portion of Salaries due in respect of the Half Year then last past, but also all or any Arrears of Salaries remaining unpaid on preceding Accounts.

Regulation of Appeals.

XXV. The Provisions contained in the Act passed in the Session of Parliament holden in the Sixth and Seventh Years of the Reign of King William the Fourth, Chapter One hundred and six, and in the Act passed in the Session of Parliament holden in the Second and Third Years of the Reign of Her present Majesty, Chapter Fifty-eight, touching Appeals to the Lord Warden, shall be repealed, and henceforth from all Decrees and Orders of the Vice-Warden on the Equity Side of his Court, and from all Judgments of the Vice-Warden on the Common Law Side thereof, there shall lie an Appeal to the Lord Warden, who shall have Power to affirm, vary, or reverse the Decree, Order, or Judgment wholly or in part, or to dismiss the Appeal, or to direct a Re-hearing or a new Trial in the Court below, and to make such Order or Orders touching the Costs in the Cause as to him shall seem fit, and the Decree, Order, or Judgment of the Lord Warden on such Appeal shall be remitted to the Vice-Warden, to be by him carried into effect and enforced, if need be, according to the Course and Practice of the Court; and upon hearing such Appeal it shall not be competent for the Parties to

produce fresh Evidence in the Cause, or to call upon the Lord Warden to hear any Witnesses in the Cause unless he shall in his Discretion think fit to do so; but the Decree, Order, or Judgment of the Lord Warden may proceed on the State of Facts appearing on the Notes of the Trial below certified by the Vice-Warden or agreed upon by the Parties; and the Vice-Warden shall certify such Notes accordingly, and transmit to the Lord Warden a Record of the Proceedings in his Court, and all Documents and Papers in the Cause in the Custody of the Court; and the Parties before the Lord Warden shall produce all the Documents and Papers produced on the Trial below. On the Hearing and Decision of the Appeal the Lord Warden shall be assisted by Two or more Assessors, who shall be Members of the Judicial Committee of the Privy Council or Judges of the High Court of Chancery or Courts of Common Law at Westminster; and the Decree, Order, or Judgment of the Lord Warden in the Court of Appeal so constituted shall be subject to a final Appeal to the Judicial Committee of the Privy Council, who shall have Power to hear and determine the same. And it shall be lawful for the Lord Warden to remit a Cause pending before him on Appeal at once for the Determination of the said Judicial Committee, without pronouncing any previous Judgment thereon: Provided that no Appeal shall be allowed in any Case where the Debt or Damages sought to be recovered shall not exceed Twenty Pounds and where no Question of Jurisdiction or of the Custom of Mining or Miners shall have arisen in the Court below, nor shall any Appeal operate to stay Proceeding or be allowed, unless the Party appellant shall notify in Writing to the Registrar, within Thirty Days after Notice of the Decree, Order, or Judgment appealed against, his Intention to prosecute an Appeal, and shall then give or offer to give Security by Bond to the Registrar to prosecute the same within a Time prefixed by the Court, and to abide by and perform the final Order and Award of the Court of Appeal; and it shall be lawful for the Lord Warden, with the Approval of Two or more Members of the Judicial Committee of the Privy Council or Judges of the High Court of Chancery or of the Superior Courts of Common Law, from Time to Time, to make any General Rules and Orders for regulating the Practice, Fees, and Costs on Appeals pending before him, not inconsistent with the Provisions of this Act.

Levying and Application of Fines.

XXVI. All Fines and Penalties lawfully imposed and levied by Authority of the Vice-Warden for any Default or Non-attendance of Jurors, Misdemeanor of Bailiffs or other Officers, Contempt of Court, or other Cause whatsoever, shall be paid to the Registrar of the Court, and form Part of the Fund for Payment of Expenses and Salaries, and such Fines and Penalties shall be levied within the Stannaries

Stannaries by Fieri facias issued by Order of the Vice-Warden, on Complaint of the Registrar, and Summons, and Hearing in a summary Way.

Punishment of Frauds by Miners in Devonshire.

XXVII. And whereas by the Tenth Section of an Act passed in the Parliament holden in the Second and Third Years of the Reign of Her present Majesty, Chapter Fifty-eight, it was enacted, that certain Frauds committed by Workmen in Mines in the County of Cornwall should be deemed Felonies, and should be punished as in Cases of Simple Larceny: And whereas it is desirable that that Enactment should be extended to the County of Devon: Be it therefore enacted, That for the Prosecution and Punishment of Frauds in Mines by idle and dishonest Workmen removing or concealing Ore for the Purpose of obtaining more Wages than are of Right due to them, and thereby defrauding the Adventurers in or Proprietors of such Mines, or the honest and industrious Workmen therein, if any Person or Persons employed in or about any Mine within the County of Devon shall take, remove, or conceal the Ore of any Metal, or any Lapis Calaminaris, Manganese, Mundick, or other Mineral found or being in such Mine, with Intent to defraud the Proprietor or Proprietors of or Adventurer or Adventurers in such Mine, or any One or more of them respectively, or any Workman or Miner employed therein, then and in every such Case respectively such Person or Persons so offending shall be deemed and taken to be guilty of Felony, and being convicted thereof shall be liable to be punished in the same Manner as in the Case of Simple Larceny.

Vice-Warden to be qualified to act as a Justice of the Peace in the County.

XXVIII. The Vice-Warden of the Stannaries for the Time being whose Name shall or may be inserted in any Commission of the Peace for the County of Cornwall shall be qualified to act in the Execution of the Office of Justice of the Peace for the said County, although he may not have such Qualification by Estate or Interest in Lands, Tenements, or Hereditaments as is now enjoined by Law in the Case of other like Justices; provided that he be not disqualified to act for any other Cause or upon any other Occasion than in respect of the Want of such Estate or Interest.

Parts of Acts repealed.

XXIX. The following Parts and Provisions of the Act passed in the Session of Parliament holden in the Sixth and Seventh Years of the Reign of King William the Fourth, Chapter One hundred and six, shall be and the same are hereby repealed; that is to say, Sections Five, Eleven, and Fourteen, and so much of Section Seven as relates to Appeals, and the Words "Nisi prius" shall be considered as struck and omitted out of Section Eight: The following Parts and Provisions of the Act passed in the Session of Parliament holden in the Second

and Third Years of the Reign of Her present Majesty, Chapter Fifty-eight, shall also be and the same are hereby repealed; that is to say, Sections Three, Four, and Nine; but no Acts done or Rules or Orders made by Authority of the Provisions so repealed shall be thereby affected or made void.

Law Clerk of the Duchy of Cornwall to act as Attorney or Solicitor in all Courts.

XXX. Whereas it will be convenient that the Office of the Duchy of Cornwall should be put on the same Footing as certain Public Offices in the Transaction of Law Business: Be it enacted, That whenever any Person shall be appointed by His Royal Highness the Prince of Wales, or other the Personage for the Time being entitled to the Possessions of the Duchy of Cornwall, to act as Attorney or Solicitor in the Affairs of the said Duchy, it shall be lawful for such Person to act and practise as such Attorney or Solicitor in such Affairs in all and every Court, Jurisdiction, and Place in any and every Part of the United Kingdom, any Statute, Order, Rule, Usage, or Custom relating to Attornies or Solicitors, or the Admission, Inrolment, or Practice of Attornies or Solicitors, to the contrary notwithstanding.

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An Act to amend and extend the Jurisdiction of the Stannary Court.

(*Brought from the Lords* 9 *May* 1855.)

Ordered, by The House of Commons, *to be Printed* 10 *May* 1855.

[Bill 113.] *Under* 3 *oz.*

Court Amendment.

Jurisdiction of the Stannary Court Amendment Bill.

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Process in case of Mines of mixed Minerals, &c.; Sect. 1.
Interpretation Clause; 2.
Suits by Pursers, &c. for Contribution against non-resident Shareholders; 3.
Plaintiff may join several Adventurers in One Petition, &c.; 4.
Suits by Creditors for Payment of Debts of Adventurers in a Mine; 5.
Suits for Account between Adventurers; 6.
Process in Suits against non-resident Defendants; 7.
Service of Process out of Stannaries; 8.
Execution of Judgments out of Stannaries in Common Law Suits; 9.
Execution of Decrees, &c. in Equity Suits in or out of Stannaries; 10.
Interpleader in Equity; 11.
Adjudication to be final; 12.
Upon Application of Registrar, &c., Action may be stayed; 13.
Freehold, &c. not to be adjudicated upon without Consent; 14.
Ejectment in Stannaries; 15.
Summary Suits for small Debts extended to Torts; 16.
Removal of certain Causes from the County Court; 17.
Pleading to Jurisdiction; 18.
Power of Registrar on interlocutory Applications; 19.
Arbitration Clause; 20.
Power of Vice-Warden to sit out of Truro for certain Purposes; 21.
Production of Lists of Shareholders and Cost Books in Mines; 22.
Power to make or adopt Rules, Orders, and Practice of Superior Courts; 23.
Provision for Illness or accidental Absence of Warden; 24.
Clause A. Allowance on auditing the Registrar's Accounts; 25.
Regulation of Appeals; 26.
Levying and Application of Fines, &c.; 27.
Punishment of Frauds by Miners in Devonshire; 28.
Vice-Warden to be qualified to act as Justice of the Peace; 29.
Parts of Acts repealed; 30.
Law Clerk of the Duchy to act as Attorney or Solicitor in all Courts; 31.

Clause B. Stannaries of Cornwall and Devon to be united as to Jurisdiction; 32.

Clause C. The Vice-Warden to sit in Devonshire when sufficient Funds shall be provided for such Sitting; 33.

Clause D. Collector in Devonshire; 34.

Clause E. Jurors to be qualified at Assizes. No Sittings in Devon till Duchy Council or Commissioners shall direct; 35.

Clause F. Assessment of Mines and Minerals in Devonshire; 36.

Clause G. Commitment of Prisoners in Devonshire; 37.

Clause H. Provision for the Establishment of a separate Court in Devonshire; 38.

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[AS AMENDED IN COMMITTEE]

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An Act to amend and extend the Jurisdiction of the Stannary Court.

[Note.—*The Clauses marked* A. *to* H. *were added in Committee.*]

WHEREAS it is desirable to explain and amend the Acts heretofore passed for the Administration of Justice in the Stannaries, and to make the Jurisdiction and Process of the Court of the Vice-Warden more efficient, and to regulate Appeals from the Vice-Warden: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. Where any Mine or Sett within the Stannaries shall be worked by the same Adventurers not only for metallic Minerals within the Jurisdiction of the Court, but also for non-metallic Minerals found in the same Mine or Sett, or intermixed with metallic Minerals, the entire Mine and Works and Products thereof shall be taken to be within the Cognizance of the Vice-Warden as if the same had wholly consisted of metallic Minerals, and the Process of the Court shall extend to and be exercised over the same, and all the Machinery and Materials thereon, as in the Case of Mines of metallic Minerals, and the Mineral called Plumbago or Black Lead is hereby declared to be a metallic Mineral. Process in case of Mines of mixed Minerals.

Interpretation Clause.

II. The Words "Mine" and "Mineral" and "Miner," when used in this Act, or in any Pleadings, Process, or Proceedings in the said Court, shall, unless otherwise explained or qualified, be respectively presumed and taken to mean a metallic Mine or Mineral within the Jurisdiction of the said Court, and a Miner in some Mine, Work, or Adventure within the same Jurisdiction, and having Privilege to sue or be sued in the said Court; and the Words "County Court" shall in this Act mean any Court established under the Provisions of the Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Her present Majesty, Chapter Ninety-five, and also the Court held under the Provisions of "The London (City) Small Debts Extension Act, 1852."

Suit by Pursers, &c. for Contribution against non-resident Shareholders.

III. In Suits on the Equity Side of the Court of the Vice-Warden, prosecuted according to Custom by the Purser or other principal Agent of the Adventurers in a Mine in the Stannaries against an Adventurer or his personal Representatives for Contribution to Calls or to the Expenses of working such Mine or Adventure, it shall be lawful for the Vice-Warden, upon special Application in that Behalf, to order that Service of Process on the Defendant in any Part of England or Wales to compel Appearance and Answer shall be sufficient Service, although he may not then be personally within the Jurisdiction of the said Court; and upon Proof of such Service and the Default of the Defendant to appear and answer the Petition within the Time prefixed by the Summons, it shall be lawful for the Plaintiff to enter an Appearance for the Defendant, and thereupon such Proceedings shall be had in the Suit, and such Orders and Decree made, as if the Process had been duly served on the Defendant within the Jurisdiction of the Court; and if upon Sale of the Shares or Interest of the Defendant in the Mine or Adventure according to Custom the Proceeds of the Sale shall be insufficient to satisfy the Debt of the Defendant, Costs of Suit, and Expenses of Sale, it shall be lawful to levy the same or the Residue thereof in the Manner herein-after provided for enforcing Decrees and Orders on the Equity Side of the Court; and after Appearance so entered, all Notices, Orders, Summonses, Warrants, and other Process in the Suit shall be deemed to be well served if served on the Defendant wheresoever he shall then be in England or Wales.

Plaintiff may join several Adventurers in One Petition, &c.

IV. In all such Suits against Adventurers for Contribution, it shall be lawful for the Plaintiff to join several Adventurers in One Petition for Recovery of their several Contributions, and for the Court to make One Decree for Payment and One Order for Sale of Shares, and to enforce Payment by separate Process of Execution against each Defendant, if need be; and where the Defendants or any of them shall put in separate Answers, it shall be lawful for the Court to direct that all

all or any of the Matters in issue be heard and tried at the same Time; provided that nothing herein contained shall be construed to abridge or affect the Right of the Plaintiff in such a Suit, as now exercised, to proceed against Adventurers residing or being out of the Jurisdiction of the Court upon a Service on the Mine itself, substituted by Order of the Vice-Warden for personal Service; but in such Case the Plaintiff shall not be entitled to any other or further Remedy for Recovery of the Arrears of Contribution in the Vice-Warden's Court from a Defendant so served than he had before the passing of this Act.

Suits by Creditors for Payment of Debts of Adventurers in a Mine.

V. In Suits on the Equity Side of the said Court by Creditors prosecuted according to Custom against the Purser or other principal Agent of the Adventurers, or against one or more of the Adventurers in a Mine in the Stannaries, to enforce Payment of their Demands by Sale of the Ores, Machinery, Materials, and Effects for the Time being belonging to the Adventurers, and being upon or about the Mine or fraudulently removed therefrom, it shall be lawful for the Vice-Warden, upon special Application in that Behalf, to order that Service of Process on the Defendant in any Part of England or Wales to compel Appearance and Answer shall be sufficient Service, although he may not then be personally within the Jurisdiction of the said Court; and upon Proof of such Service and of the Default of the Defendant to appear and answer the Petition within the Time prefixed by the Court, it shall be lawful for the Plaintiff to enter an Appearance for the Defendant, and thereupon such Proceedings shall be had in the Suit, and such Decrees and Orders made, as if the Process had been duly served on the Defendant within the Jurisdiction of the said Court; and any Adventurer shall, upon Application to the Vice-Warden or Registrar, be let in to defend the Suit, either separately or jointly with the other Defendant, within Twenty Days after the filing of the Petition, or within such other Time as the Vice-Warden shall allow; and where several Creditors of the same Adventurers shall sue separately for Payment and Sale, the Vice-Warden shall have Power to consolidate the Suits in such Way as shall seem to him necessary or expedient for the convenient Trial of the Matters in issue in the said Causes and for the saving of Expense to the Suitors; and all further Notices, Orders, Summonses, Warrants, and other Process in the Cause or consolidated Causes shall be deemed to be well served if served on the Defendant in any Part of England or Wales; and if upon Sale of the Ores, Machinery, Materials, and Effects in any such Suit the Proceeds of the Sale shall be found insufficient to satisfy the Debts of the Plaintiff or Plaintiffs and of the other Creditors who shall be admitted according to Custom to prove their Debts before the Registrar of the Court and the Costs of Suit and Expenses of Sale, it shall be lawful for the Registrar, at the Instance of the Plaintiff

in the Suit or of any Creditor so admitted to Proof, and by Permission of the Vice-Warden on an Application by the Plaintiff or Creditor stating the Amount of Debts remaining unsatisfied and the Number of Adventurers, whether within or out of the Jurisdiction, so far as they can be ascertained by the Applicant, to proceed to apportion the Amount of Debts, Costs, and Expenses remaining unsatisfied rateably among all the Adventurers or Persons liable to contribute to the Payment of the said Debts, whether they be within the Jurisdiction or elsewhere, according to the Number of Shares or the Interest of each in the said Mine or Adventure; and it shall be competent for the Registrar to call for, and by Summons and Attachment within the Stannaries or Subpœna under the Seal of the Court to enforce, Production before him of the Cost Book or Books, Lists of Shareholders, Accounts, Bills, Resolutions of the Adventurers or Committees thereof, and all other Books, Papers, and Documents of the Adventurers relating to the Mine or the Management thereof, and by like Summons and Attachment or Subpœna to call before him and to examine the Purser, Managers, or other principal Agents of the Adventurers, whether the several Documents above mentioned or the Persons so called before him be within the Stannaries or elsewhere in any Part of England or Wales, and to make a List of all the Persons so liable to contribute at the Time of filing the Petition or their personal Representatives, with the Amount apportioned upon each; and when the Registrar shall have made such List and Apportionment, a Copy of the List shall be sent to the Account House of the Mine, or the principal Office or Place of Business of the Adventurers, and Notice shall be served on each Person named in the List of the Sum charged upon him, and a reasonable Time, to be fixed by the Registrar according to the Circumstances of each Case, shall be allowed to him to dispute the Apportionment before the Registrar, who shall hear and determine all Objections thereto; and when the List shall have been finally settled by the Registrar, he shall report thereon generally to the Vice-Warden, and if the Report shall be confirmed upon exception or otherwise there shall be a Decree for Payment in conformity with the said Report, and the several Sums so apportioned and charged upon each Contributory shall in and by the said Decree be made payable to the Registrar, who shall forthwith demand Payment thereof, and thereupon it shall be lawful for the said Plaintiff or Creditor, at whose Instance the Apportionment shall have been made and Decree obtained, after such Demand and a Refusal of Payment, to proceed to levy from each Contributory in the said List the Sum therein charged upon him in the Manner herein-after provided for enforcing Decrees and Orders on the Equity Side of the said Court, and for this Purpose the said Plaintiff or Creditor shall be deemed to be a Party entitled to the Benefit of the

the said Decree within the Intent and Meaning of the said Provision, and the Sums received or levied shall be forthwith paid over by him to the Registrar, who shall deduct therefrom and allow to the Party who shall have so received or levied the same his reasonable Costs and Expenses in and about the said Apportionment and obtaining the said Decree and levying the Monies so payable under it, and shall distribute the Residue rateably among the several Creditors in the Proportion of the Debts remaining due to them respectively: Provided always, that all Notices and Demands required by this Act to be served on or made upon Adventurers and other Persons named in the Registrar's List as Contributories shall be deemed to be sufficiently served if sent by Post prepaid, addressed to the Party at his last known Address; unless the Registrar shall order that the same shall be served in some other Way, in which Case Service shall not be sufficient unless it be in conformity with such Order.

Suits for Account between Adventurers.

VI. In Suits on the Equity Side of the said Court for an Account as between Adventurers in Mines in the Stannaries, it shall be lawful for the Court, upon special Application in that Behalf, to order that Service of Process in any Part of England and Wales to compel Appearance and Answer shall be good Service on any Adventurers or their personal Representatives, or others who may be necessary Parties to such Suit, although they may not then be personally within the Jurisdiction of the said Court; and upon Proof of such Service, and of the Default of any Person so served to appear and answer the Petition within the Time prefixed by the Summons, it shall be lawful for the Plaintiff or Plaintiffs to enter Appearances for the Persons so served, and thereupon such Proceedings shall be had in the Suit, and such Orders or Decrees made, as if the Process had been duly served within the Jurisdiction of the Court, and the Orders and Decrees so made shall be binding on all Adventurers and others so served; and if the final Decree shall be for Payment of Money or Costs, Payment thereof shall be enforced in the Manner herein-after provided; and after Appearance so entered all Notices, Orders, Summonses, Warrants, and other Process in the Suit shall be deemed to be well served if served in any Part of England or Wales; and in all such Suits where any Adventurer holding a Share in a Mine or Adventure cannot be found, or is deceased and no one can be found who has administered to his Estate and Effects, then it shall be sufficient by Leave of the Court to substitute for regular Service a Service on the Mine in the usual Way, or at the principal Office or House of Business of the Adventurers, whether within the Stannaries or elsewhere in England or Wales, and Notice of such substituted Service shall be addressed by Post to the last known Address of the said Adventurer, except in case of his Decease, and thereupon Decrees or Orders of the

Court in the Suit shall be binding on such Adventurer or his Representatives, and those claiming under him, as in case of regular Service.

Process in Suits against non-resident Defendants.

VII. In Suits commenced on the Equity Side of the said Court for Causes relating to Mines and Minerals in the Stannaries, or to Shares, Interests, or Adventures therein, whereof the said Court has cognizance, in which it may be necessary or expedient to sue or to join as Defendant a Person holding or claiming to hold any Share or Interest in an Adventure in Mines or Minerals worked within the Stannaries, or being an Agent of the said Adventurers, who cannot be found within the Jurisdiction of the said Court; and in all Cases where any Person who shall have commenced any Suit or entered an Appearance in any Suit in the said Court, or shall have come in as Creditor, Claimant, or Purchaser, or otherwise submitted to the Jurisdiction thereof, cannot, by reason of his Person or Goods being out of the said Jurisdiction, be made amenable to the Process of the Court; and in all Cases where any Party to such Suit shall have died or become Bankrupt or Insolvent, and his personal Representatives or Assignees, or any of them, who may be necessary Parties to the Continuance of the Suit, shall be out of the said Jurisdiction, it shall be lawful for the Court, upon special Application in that Behalf, to order that Service of any Notice, Order, Summons, Warrant, or other Process shall be deemed good Service on any such Person, Representative, or Assignee respectively in any Part of England or Wales, and, if need be, to order an Appearance to be entered for the Person served; and thereupon it shall be lawful to take such Proceedings and to make such Order or Decree as if the Service had been made within the said Jurisdiction.

Service of Process out of Stannaries.

VIII. Where Service of Notices, Orders, Summonses, Warrants, or other Process in Causes pending in the Vice-Warden's Court may, under this Act or otherwise, lawfully be made in a Place out of the Jurisdiction of the said Court, it shall be lawful for the said Court, or for Parties to Suits therein, to send the same to the High Bailiff of the County Court in the District of which such Place may be, together with the lawful Fees payable in like Cases for Service of similar Process in the County Court, and thereupon the High Bailiff shall serve or cause to be served the same, as if it had been issued out of a County Court, and such Service shall or may be proved as in case of County Court Process.

Execution of Judgment out of Stannaries.

With respect to the Execution of Judgments and Decrees of the Court of the Vice-Warden, be it enacted as follows:

In Common Law Suits.

IX. In Actions commenced therein on the Common Law Side of the Court, where Judgment shall have been duly recovered in a Cause

Cause whereof the said Court has cognizance, but which cannot be conveniently or effectually enforced by the ordinary Process of that Court within the Jurisdiction thereof, it shall be lawful for any One of the Superior Courts of Common Law at Westminster, or for any Judge thereof, upon Application of the Party entitled to the Benefit of such Judgment, and Production of a Certificate from the Registrar of the Court of the Vice-Warden under the Seal of the Court of the Judgment so recovered, and a satisfactory Affidavit of the Ground of the Application, to cause Process to issue and Proceedings to be taken for the Recovery of the Amount due on the Judgment, including the Costs of the Certificate and of the Application, in the same Manner as upon a like Judgment recovered in an Action commenced in the Superior Court; and it shall not be necessary for this Purpose, or for any other Purpose, that the Record of any Judgment in the Vice-Warden's Court shall be engrossed on Parchment or enrolled; and where the Debt or Damages recovered by Judgment of the Court of the Vice-Warden, or sought to be recovered in Actions commenced either by Writ, Plaint, or other legal Procedure, according to the Practice of the said Court, shall not exceed Fifty Pounds, and the Judgment of the Court cannot be conveniently or effectually enforced within the Jurisdiction of the said Court, it shall be lawful for the Party entitled to the Benefit of the Judgment to sue out a Writ of Execution, and to send the same to the Clerk of any County Court within the District of which the Judgment Debtor or his Goods and Chattels shall then be or be believed to be, with a Warrant thereto annexed, under the Hand of the Registrar and Seal of the Court of the Vice-Warden, requiring Execution of the same, and with the Fees lawfully payable in like Cases for Execution of such a Writ in the County Court; and thereupon the said Clerk shall cause the same to be executed by the High Bailiff of the County Court in due course of Law, as if the same had been issued by the Court of which he is High Bailiff, and the said Bailiff shall have the same Powers and Protection as if he were executing the Process of such County Court, and shall make his Return to the Clerk of the said Court, and pay over to him the Amount levied, if any; and the Clerk shall forthwith certify the said Return, and remit the Amount so paid, less the Costs of making such Levy according to the Practice of the County Courts, to the Party prosecuting the Writ; and the Judge of the said County Court shall have and exercise the same Power and Authority over the Clerk and High Bailiff, and shall have Power to adjudicate upon Summons of Interpleader in case of adverse Claims to Goods taken in Execution, as if the Execution had been under the Warrant of his own Court.

Execution of Decrees, &c. in Equity Suits in or out of Stannaries.

X. All Decrees and Orders made in Causes on the Equity Side of the Court of the Vice-Warden, whereof the said Court has cognizance, for Payment of any Sum or Sums of Money, Costs, Charges, or Expenses, shall and may be enforced by a Writ or Writs of Fieri facias or Capias, within the Limits of the Jurisdiction of the said Court, which Writs shall be in the Form, as near as may be, of the like Writs issued to enforce Decrees or Orders for Payment of Money made by the High Court of Chancery, and be executed in like Manner by the Bailiffs of the Vice-Warden's Court; and where any Decrees or Orders, whether for Payment of Money or otherwise, cannot be conveniently or effectually enforced by the ordinary Process of the Court of the Vice-Warden within the Jurisdiction thereof, it shall be lawful for the High Court of Chancery, or for any Judge thereof, sitting in Court or at Chambers, upon the Application of a Party entitled to the Benefit of such Decree or Order, and Production of a Certificate from the Registrar of the Court of the Vice-Warden under the Seal of the Court of the said Decree or Order, or of such Part thereof as cannot be so enforced as aforesaid, and a satisfactory Affidavit of the Ground of the Application, to make the said Decree or Order, or so much thereof as cannot be enforced, a Decree or Order of the High Court of Chancery; and thereupon such Decree or Order, or such Part thereof as aforesaid, shall and may be enforced by such Proceedings and Writs as would or might have been taken or issued if the same had been originally made by the High Court of Chancery, and all the reasonable Costs of and consequent upon such Certificate and Application shall and may be recovered as if the same had been and were Part of such Decree or Order; and where the said Decree or Order of the Vice-Warden is for Payment of a Sum or Sums of Money not exceeding in the whole the Sum of Fifty Pounds, it shall be lawful for the Party entitled to the Benefit of the said Decree or Order to enforce Payment thereof in the Manner herein-before provided in the Case of a Judgment on the Common Law Side of the Court for Recovery of a Debt or Damages not exceeding the said Sum of Fifty Pounds: Provided that nothing in this Act contained shall affect or prejudice the Power of the Vice-Warden to enforce Decrees or Orders by Process of Attachment within the Jurisdiction of his Court where the same may be now lawfully exercised, or to order the Sale of Shares or Interests in Mines or Adventures in Cases wherein such Sale may now be made by Order of the said Court.

Interpleader in Equity.

XI. When any Claim is made to, or in respect of, any Goods and Chattels, or the Proceeds or Value thereof, sold or intended to be sold under a customary Decree of Sale in a Mining Creditor's Suit by any Landlord for Rent or other distrainable Demand, or by any other Person

Person not being a Party to the Suit, it shall be lawful for the Vice-Warden to call upon the Claimant by Rule or Order of the Court to appear in Person or by his Attorney or Agent in support of the same either before the Vice-Warden himself or before the Registrar, and to state the Nature and Particulars of his Claim, who shall thereupon hear the Allegations and receive the Proofs offered as well by the Claimant as by the Plaintiff in the Suit, and, if the Claimant and Plaintiff shall agree on the Facts of the Case, shall then adjudicate upon the Claim; and if the said Parties shall not so agree, then the disputed Facts shall be ascertained by an Action or Issue to be tried in the Vice-Warden's Court, in such Form as the Vice-Warden shall direct, and the Vice-Warden shall then adjudicate upon the Claim; or the Vice-Warden or Registrar shall have Power, with the Consent of the Parties so before him, their Counsel, Attornies, or Agents, to adjudicate upon and dispose of the Claim in a summary Manner: Provided that in all Cases, except in case of summary Adjudication by Consent, it shall be competent for the Registrar, at the Request of the said Parties, or either of them, to refer the Decision of the Case to the Vice-Warden; and the Vice-Warden shall in all Cases of such Interpleader make such other Rules and Orders in the Matter of the said Claim or Adjudication as between the said Parties in respect thereof, or of the Costs of the Proceedings, as to him shall seem fit and reasonable.

Adjudication to be final.

XII. The Adjudication of such Claim, either upon hearing or in default of the Appearance of the Claimant, shall be final and conclusive between the said Parties and all Persons claiming by, from, or under them; and the Adjudication, and all Rules and Orders made thereupon, shall have the Force and Effect of Judgments or Decrees of the Court, and be enforced accordingly.

Upon Application by Registrar, &c., Action may be stayed.

XIII. In Cases of Interpleader either on the Common Law or Equity Side of the Court, upon Application by the Registrar, Bailiff, or other Officer of the Court, or of the Plaintiff in the original Suit, and Certificate by the Registrar of the Proceedings in the Court of the Vice-Warden, and Proof of the Service on such Claimant of the Rule or Order calling upon him to appear in support of his Claim, any Action that shall have been or shall be brought in any Superior or Inferior Court in respect of such Claim against any Officer of the Court or Person acting under his Direction, or against the Plaintiff in the original Suit, may be stayed by the said Court, or any Judge thereof, who shall have Power to make such Rules and Orders touching the Costs of the Action so stayed as shall seem fit and reasonable.

Freehold, &c. not to be adjudicated upon without Consent.

XIV. Provided that nothing herein contained shall authorize the Vice-Warden or Registrar to adjudicate upon any Claim, either on the Common Law or Equity Side of the Court, touching the Freehold or Inheritance of any Person, except by Consent of the Parties before the Court, and as between and against themselves and those claiming under them.

Ejectment in the Stannaries.

XV. It shall be lawful for the Vice-Warden to entertain Jurisdiction in Suits for Recovery of the Possession of Mines within the Stannaries, and of Buildings, Machinery, Works, and Waters annexed thereto and occupied therewith, on the Ground of Breach of Condition, Determination of the Sett or Lease, or other lawful or customary Cause of Forfeiture, and also to prohibit the working of any Mine in a Manner contrary to Custom or Covenant by Injunction in Cases and under Circumstances in which the High Court of Chancery or the Courts of Common Law at Westminster may now by Law enjoin; and the Suit for Recovery of Possession shall be by Action of Ejectment on the Common Law Side of the Court, according to the Forms and Procedure established by the Common Law Procedure Act, 1852, so far as they are or can be made applicable to the Vice-Warden's Court; and it shall be lawful for the Vice-Warden to cause all necessary Writs to be served on the Persons in possession or entitled to defend, wheresoever they may then be in England or Wales, and to adopt any of the General Rules and Orders of the said Superior Courts promulgated from Time to Time and applicable to the Action of Ejectment with such Variations as the Nature and Constitution of the Court shall render necessary; and all Constables and Peace Officers within their several Jurisdictions shall be aiding the Bailiffs of the Court in the Execution of the Writ or Writs awarded for Recovery of the Possession and Costs, and in enforcing Process of Attachment in the Case of Breach of Injunction; provided that nothing herein contained shall authorize the Vice-Warden to entertain any Question touching the Freehold or Inheritance of any Person except by such Consent and as between and against such Parties as aforesaid.

Summary Suits for small Debts extended to Torts.

XVI. Whereas Actions for Debts not exceeding Fifty Pounds are now prosecuted summarily, and tried by Five Jurors only on the Common Law Side of the said Court, and it is expedient that the like Process and Trial be extended to other Actions, whether for Debt or Damages: Be it therefore enacted, That all or any Actions for Debts or Damages not exceeding Fifty Pounds, whether founded on Tort or Contract, for Causes within the Jurisdiction and Cognizance of the said Court, shall be prosecuted in a summary Way by Plaint, and tried by a Jury of Five Jurors, as is now used in Actions for small Debts in the said Court, except in Cases where the Vice-Warden shall permit or direct

direct such Action to be by Writ of Summons; and for the Purpose of improving the Procedure in such Actions by Plaint, it shall be lawful for the Vice-Warden to make and enforce Rules and Forms for Procedure, Practice, Pleading, and Taxation of Costs, and to adopt all or any of the Rules and Forms now or hereafter legally in force and use in the County Courts, with such Alterations as may be necessary to adapt them to the Jurisdiction of the Vice-Warden's Court.

Removal of certain Causes from the County Court.

XVII. Where any Cause touching the Usage or Customs of Mining or of Miners, or the Principles and Incidents of Cost Book Partnership or of Cost Book Mines, or the Privileges and Franchises of Tinners or Miners, or the Effect and Operation of Setts or Licences to mine or Contracts for the Sale or Transfer of Shares in Mines, or the Custom of Tin Bounds or the Nature and Incidents thereof, shall be pending before One of the Judges of the County Courts within the Stannaries, the said Judge shall, at the Request of either Party, have Power to remit the said Cause for Trial or Hearing before the Court of the Vice-Warden, who shall thereupon have all the same Powers and Jurisdiction with respect to the Cause as if it had been commenced by Plaint in the Court of the Vice-Warden, subject to the like Appeal as in other Causes so commenced.

Pleading to Jurisdiction.

XVIII. Demurrers for Matter of Form only shall not be permitted in the Court of the Vice-Warden, and on the Equity Side of the said Court no Demurrers or Pleas shall be permitted except Demurrers for that the Suit or Subject thereof is not within the Cognizance or Jurisdiction of the said Court; and if the Objection of Want of Jurisdiction shall not be raised by Demurrer or Plea within Ten Days after Appearance in a Suit on the Equity Side, or within Ten Days after Notice of Declaration or Service of a Copy of Plaint on the Common Law Side, no Question as to the Jurisdiction of the Court shall thereafter be raised, except in Cases where the Want of Jurisdiction will disable the Court from doing full and substantial Justice between the Parties to the Suit; and the Mode of filing or serving Demurrers or Pleas to the Jurisdiction shall be regulated by general Rules and Orders made as herein-after provided, and so much of Section Thirteen of the Act passed in the Session of Parliament holden in the Sixth and Seventh Years of the Reign of William the Fourth, Chapter One hundred and six, as relates to Pleas and Demurrers to the Jurisdiction, and so much of the Act passed in the Sixteenth Year of the Reign of Charles the First, Chapter Fifteen, as relates to the Form and Manner of objecting to the Jurisdiction of the Stannary Courts, or is at variance with this Act, shall be and is hereby repealed, except as to Suits commenced before the passing of this Act.

Power of Registrar on Interlocutory Applications.

XIX. The Registrar of the Court of the Vice-Warden shall have Power at all Times before Hearing or Trial, either on the Common Law or Equity Side of the said Court, to make Orders for amending the Proceedings or Pleadings upon Terms or unconditionally, to hear and determine Applications for further Time, Objections for Defect of Form, or on the Ground of Uncertainty, Obscurity, Prolixity, or Multifariousness, and to make Rules and Orders in all such other interlocutory Matters as shall be submitted or referred to him by Consent of Parties, or which he may be directed or empowered to hear and determine or deal with, by any General Rules or Orders made under the Authority of this Act; and the said several Matters shall be heard and determined ore tenus in a summary Way, subject however to Appeal by Motion to the Vice-Warden, either ore tenus or on a written Statement agreed upon by the Parties or drawn up by the Registrar and submitted to the Vice-Warden.

Arbitration Clause.

XX. The Vice-Warden shall have Power, with the Consent of the Parties to any Suit, their Counsel, Attornies, or Solicitors at Law or in Equity, to order the same, with or without other Matters in dispute, to be referred to Arbitration, or to act as such Arbitrator himself, at the Request of the said Parties, in such Manner and on such Terms and Conditions as he shall think fit, with all the usual Powers of Arbitrators, under References by Order of the Superior Courts; and such Reference shall not be revocable by either Party except by Consent of the Court; and the Vice-Warden shall have Power to set aside the Award for Cause shown, or to refer the Case back again to the Arbitrator, and the final Award made in pursuance of such Reference shall, on the Motion of either Party, be entered as the Decree or Order of the Court, or Judgment shall be entered in pursuance of such Award, as the Case may be, and the Decree, Order, or Judgment so entered shall thereupon be enforced as if the same had been made or entered in the ordinary Course of Procedure at Law or in Equity, as the Case may be.

Power of Vice-Warden to sit out of Truro for certain Purposes.

XXI. It shall be lawful for the Vice-Warden, at the Request of one or some of the Parties to a Suit, and subject to such Terms as to Costs or otherwise as he may think fit and reasonable, to adjourn or hold his Court to or at any Place within the Stannaries for the Purpose of hearing Witnesses or taking Evidence; and in such Cases it shall not be necessary for the Registrar or Secretary of the Vice-Warden or Prothonotary of the Court to be in attendance at the Sittings of the Vice-Warden at such Place.

Production of Lists of Shareholders in Mines.

XXII. In all Cases of Mines in the Stannaries worked by Partnerships or Companies of Adventurers professing to adopt or to be constituted

constituted on the Cost Book System or Principle, it shall be lawful for the Vice-Warden, upon Application of any Adventurer or Shareholder in the Mine or Creditor of the Adventurers, founded on sufficient Grounds verified by Affidavit, although no Suit be pending touching the said Mine or Adventurers, to compel Production by Rule or Order of a List or Lists of all Adventurers or Shareholders for the Time being by the Purser or other principal Agent or Manager, Clerk, or Secretary of the Mine, and whether such Person be then within the Jurisdiction of the Court or elsewhere, for Inspection of the Applicant; and if such List shall not be produced, showing truly the Name, Address, and Number of Shares of each and every Adventurer or Shareholder, and the Time when each became an Adventurer or Shareholder, so far as the same are known or can be ascertained, then it shall be lawful for the Vice-Warden at his Discretion, after Fourteen Days previous Notice of his Intention served on the Person so ordered to produce, and also affixed to the Account House of the Mine, or left at the principal Office or House of Business of the Adventurers within the Stannaries or elsewhere, to declare that the Partnership or Company is not carried on or constituted on the Cost Book System or Principle; and the said Partnership or Company shall thereupon no longer be deemed or taken to be for any Purpose a Partnership, Association, or Company within the Exemption of Mining Partnerships contained in the Act passed in the present Reign, entitled "An Act "for the Registration, Incorporation, and Regulation of Joint Stock "Companies," or within the conditional Exemption contained in the Joint Stock Companies winding-up Amendment Act, 1849; and in all Cases of like Mines and Partnerships, it shall be lawful for the Vice-Warden, upon Application of any Adventurer or Shareholder founded on sufficient Grounds and Affidavit, and although no Suit be then pending, to make a Rule or Order for Production of the Cost Books of the Mine, List of Adventurers, and such other Books and Documents relating to the Mine and Management thereof as the Vice-Warden shall think proper, for Inspection of such Applicant, and to enforce such Rule or Order by Attachment within the Stannaries, or by causing the same to be made a Rule or Order of one of the Superior Courts at Westminster under the Statute in such Case made and provided. 6 & 7 W. 4. c. 106. s. 12.

XXIII. Whereas the Power of the Vice-Warden to make general Rules or Orders of Court is insufficient, and it is doubtful whether it extends to the Adoption of Improvements in the Procedure of the Superior Courts recently made by Parliament, or of Rules and Orders made from Time to Time by the Superior Courts by the Authority of Parliament: Be it therefore enacted, That it shall be lawful for the Vice-Warden to make from Time to Time new Rules and Orders touching the Procedure, Practice, Pleadings, Regulation of Court Fees, Power to make or adopt Rules, Orders, and Practice of Superior Courts of Law or Equity.

Fees, and Taxation of Costs, both on the Common Law and Equity Side of the said Court, and all other Business of the said Court, and to prescribe Forms for carrying into effect such new Rules and Orders, and also existing Rules and Orders not varied or repealed, and also to adopt all or any of the Provisions contained in the Act passed in the Session of Parliament holden in the Fifteenth and Sixteenth Years of the Reign of Her present Majesty, Chapter Eighty-six, and in the Common Law Procedure Act, 1852, and in the Common Law Procedure Act, 1854, and all or any of the Rules and Orders from Time to Time made and promulgated by the Superior Courts by and under the Authority of the said Acts or otherwise, with such Modifications as may be necessary to adapt them to the Jurisdiction of the Vice-Warden's Court; provided that no such Rules, Orders, Forms, or Provisions shall be made, prescribed, or adopted without the Consent and Approval of One of the Judges of the Superior Courts of Common Law at Westminster in the Case of Rules, Forms, and Provisions applicable to the Common Law Side of the said Court, or of the Lord Chancellor or One of the Judges of the High Court of Chancery in the Case of Orders, Forms, and Provisions applicable to the Equity Side of the said Court; provided also, that nothing herein contained shall be construed to abridge or restrain any existing Power of the Vice-Warden to make Rules or Orders in Cases not requiring the Consent or Approval of any Judge of the Superior Courts.

Provision for Illness or accidental Absence of Vice-Warden.

XXIV. When the Vice-Warden shall be prevented by Illness or Accident from attending and sitting on the Day appointed for such Sitting, it shall not be necessary to send any Statement to the Lord Warden of the Cause of his Non-attendance or of the Adjournment of the Court, unless the Vice-Warden shall be, or it shall appear to him probable that he will be, thereby prevented from sitting within the Period required by Law; and if, for the Reason aforesaid, it shall be necessary to appoint a Deputy, it shall be lawful for the Vice-Warden to appoint such Deputy, qualified as now required by Law, for the then next Sittings only, provided the Cause alleged in such Statement be allowed by the Lord Warden to be sufficient and the Person so named as Deputy be approved by him; and whenever it may be desirable to alter the Time fixed for holding the Court, it shall be lawful for the Vice-Warden to accelerate or postpone the holding thereof, provided that such Alteration be duly notified and published in the usual Way, and the holding be not postponed beyond the Third Calendar Month next after the Calendar Month in which the last preceding Sittings were held, and no Irregularity in the Time of holding any Court or Sitting shall vitiate or avoid the Proceedings at such Court or Sitting.

XXV. And,

XXV. And, because Doubts may arise as to the Allowance of certain Disbursements and Payment of Arrears of Salaries on the auditing of the Registrar's Accounts, be it enacted, That upon such Audit there shall be allowed annually, in respect of the Expenses of advertising and holding Courts in Cornwall, summoning Jurors, enforcing Payment of Assessments, lighting, warming, cleaning, watching, and keeping the Court and Offices there, providing Furniture, Books, Stationery, and Printing, and such additional Accommodation or occasional Assistance in the Office as the Vice-Warden shall consider reasonable or necessary, a Sum not exceeding the Sum of One hundred and twenty Pounds; provided that if hereafter the Expenses of the Sittings and Court shall become larger by reason of increased Business, more frequent Sittings, or other Causes, it shall be competent for the Council of the Prince of Wales, or special Commissioners for managing the Affairs of the Duchy for the Time being, to authorize a larger Allowance, not exceeding in the whole Two Third Parts of the Fees of Court that shall come into the Hands of the Registrar during each Year: And whereas it has happened, and may again happen, that the Monies arising from Fees and Assessments, and available for the Payment of the official Salaries charged on them, have been or may be insufficient to pay the current Salaries when the same become due: Be it enacted, That when the Registrar shall account to the Vice-Warden for such Monies, there shall be allowed to him thereout not only the Portion of Salaries due in respect of the Half Year then last past, but also all or any Arrears of Salaries remaining unpaid on preceding Accounts.

CLAUSE A. Allowances to be made on auditing the Registrar's Accounts.

XXVI. The Provisions contained in the Act passed in the Session of Parliament holden in the Sixth and Seventh Years of the Reign of King William the Fourth, Chapter One hundred and six, and in the Act passed in the Session of Parliament holden in the Second and Third Years of the Reign of Her present Majesty, Chapter Fifty-eight, touching Appeals to the Lord Warden, shall be repealed, and henceforth from all Decrees and Orders of the Vice-Warden on the Equity Side of his Court, and from all Judgments of the Vice-Warden on the Common Law Side thereof, there shall lie an Appeal to the Lord Warden, who shall have Power to affirm, vary, or reverse the Decree, Order, or Judgment wholly or in part, or to dismiss the Appeal, or to direct a Re-hearing or a new Trial in the Court below, and to make such Order or Orders touching the Costs in the Cause as to him shall seem fit, and the Decree, Order, or Judgment of the Lord Warden on such Appeal shall be remitted to the Vice-Warden, to be by him carried into effect and enforced, if need be, according to the Course and Practice of the Court; and upon hearing such Appeal it shall not be competent for the Parties to

Regulation of Appeals.

produce fresh Evidence in the Cause, or to call upon the Lord Warden to hear any Witnesses in the Cause unless he shall in his Discretion think fit to do so; but the Decree, Order, or Judgment of the Lord Warden may proceed on the State of Facts appearing on the Notes of the Trial below certified by the Vice-Warden or agreed upon by the Parties; and the Vice-Warden shall certify such Notes accordingly, and transmit to the Lord Warden a Record of the Proceedings in his Court, and all Documents and Papers in the Cause in the Custody of the Court; and the Parties before the Lord Warden shall produce all the Documents and Papers produced on the Trial below. On the Hearing and Decision of the Appeal the Lord Warden shall be assisted by Two or more Assessors, who shall be Members of the Judicial Committee of the Privy Council or Judges of the High Court of Chancery or Courts of Common Law at Westminster; and the Decree, Order, or Judgment of the Lord Warden in the Court of Appeal so constituted shall be subject to a final Appeal to the Judicial Committee of the Privy Council, who shall have Power to hear and determine the same. And it shall be lawful for the Lord Warden to remit a Cause pending before him on Appeal at once for the Determination of the said Judicial Committee, without pronouncing any previous Judgment thereon: Provided that no Appeal shall be allowed in any Case where the Debt or Damages sought to be recovered shall not exceed Twenty Pounds and where no Question of Jurisdiction or of the Custom of Mining or Miners shall have arisen in the Court below, nor shall any Appeal operate to stay Proceeding or be allowed, unless the Party appellant shall notify in Writing to the Registrar, within Thirty Days after Notice of the Decree, Order, or Judgment appealed against, his Intention to prosecute an Appeal, and shall then give or offer to give Security by Bond to the Registrar to prosecute the same within a Time prefixed by the Court, and to abide by and perform the final Order and Award of the Court of Appeal, which Bond shall not require to be stamped; and it shall be lawful for the Lord Warden, with the Approval of Two or more Members of the Judicial Committee of the Privy Council or Judges of the High Court of Chancery or of the Superior Courts of Common Law, from Time to Time, to make any General Rules and Orders for regulating the Practice, Fees, and Costs on Appeals pending before him, not inconsistent with the Provisions of this Act.

Levying and Application of Fines.

XXVII. The Penalties incurred by the Head Manager of any Mine by reason of his Omission to make such Returns of Metals and Minerals or the Value thereof, or such Payments in respect thereof as he is now required by Law to make, shall be assessed and imposed by the Vice-Warden; and such Penalties and all Fines and Penalties lawfully

lawfully imposed and levied by Authority of the Vice-Warden for any Default or Non-attendance of Jurors, Misdemeanor of Bailiffs or other Officers, Contempt of Court, or other Cause whatsoever, shall be paid to the Registrar of the Court, and form Part of the Fund for Payment of Expenses and Salaries, and such Fines and Penalties shall be levied within the Stannaries by Fieri facias issued by Order of the Vice-Warden, on Complaint of the Registrar, and Summons, and Hearing in a summary Way; and if the Offender be not found within the Stannaries, shall be levied on like Summons and Hearing, or Default of Appearance, in the Manner herein-before provided for enforcing Execution of Judgments on the Common Law Side of the Court. 6 & 7 W. 4. c. 106. s. 31.

Punishment of Frauds by Miners in Devonshire.

XXVIII. And whereas by the Tenth Section of an Act passed in the Parliament holden in the Second and Third Years of the Reign of Her present Majesty, Chapter Fifty-eight, it was enacted, that certain Frauds committed by Workmen in Mines in the County of Cornwall should be deemed Felonies, and should be punished as in Cases of Simple Larceny: And whereas it is desirable that that Enactment should be extended to the County of Devon: Be it therefore enacted, That for the Prosecution and Punishment of Frauds in Mines by idle and dishonest Workmen removing or concealing Ore for the Purpose of obtaining more Wages than are of Right due to them, and thereby defrauding the Adventurers in or Proprietors of such Mines, or the honest and industrious Workmen therein, if any Person or Persons employed in or about any Mine within the County of Devon shall take, remove, or conceal the Ore of any Metal, or any Lapis Calaminaris, Manganese, Mundick, or other Mineral found or being in such Mine, with Intent to defraud the Proprietor or Proprietors of or Adventurer or Adventurers in such Mine, or any One or more of them respectively, or any Workman or Miner employed therein, then and in every such Case respectively such Person or Persons so offending shall be deemed and taken to be guilty of Felony, and being convicted thereof shall be liable to be punished in the same Manner as in the Case of Simple Larceny.

Vice-Warden to be qualified to act as a Justice of the Peace in the County.

XXIX. The Vice-Warden of the Stannaries for the Time being whose Name shall or may be inserted in any Commission of the Peace for the County of Cornwall shall be qualified to act in the Execution of the Office of Justice of the Peace for the said County, although he may not have such Qualification by Estate or Interest in Lands, Tenements, or Hereditaments as is now enjoined by Law in the Case of other like Justices; provided that he be not disqualified to act for any other Cause or upon any other Occasion than in respect of the Want of such Estate or Interest.

Parts of Acts repealed.

XXX. The following Parts and Provisions of the Act passed in the Session of Parliament holden in the Sixth and Seventh Years of the Reign of King William the Fourth, Chapter One hundred and six, shall be and the same are hereby repealed; that is to say, Sections Five, Eleven, and Fourteen, and so much of Section Seven as relates to Appeals, and the Words "Nisi prius" shall be considered as struck and omitted out of Section Eight: The following Parts and Provisions of the Act passed in the Session of Parliament holden in the Second and Third Years of the Reign of Her present Majesty, Chapter Fifty-eight, shall also be and the same are hereby repealed; that is to say, Sections Three, Four, and Nine, and the Proviso in Section Two; but no Acts done or Rules or Orders made by Authority of the Provisions so repealed shall be thereby affected or made void.

Law Clerk of the Duchy of Cornwall to act as Attorney or Solicitor in all Courts.

XXXI. Whereas it will be convenient that the Office of the Duchy of Cornwall should be put on the same Footing as certain Public Offices in the Transaction of Law Business: Be it enacted, That whenever any Person shall be appointed by His Royal Highness the Prince of Wales, or other the Personage for the Time being entitled to the Possessions of the Duchy of Cornwall, to act as Attorney or Solicitor in the Affairs of the said Duchy, it shall be lawful for such Person to act and practise as such Attorney or Solicitor in such Affairs in all and every Court, Jurisdiction, and Place in any and every Part of the United Kingdom, any Statute, Order, Rule, Usage, or Custom relating to Attornies or Solicitors, or the Admission, Inrolment, or Practice of Attornies or Solicitors, to the contrary notwithstanding.

Clause B. Stannaries of Cornwall and Devon to be united as to Jurisdiction.

XXXII. And whereas it has been represented that the Adventurers, Miners, and others interested in Mines in the County of Devon would be benefited by the Extension of the Stannary Court Jurisdiction into that County, and are willing to be contributory to the Expenses of such Extension, in the Manner herein-after provided: Be it therefore enacted as follows:—The Jurisdiction of the Court of the Vice-Warden shall henceforth be extended and exercised over the County of Devon, and over the Mines and Miners therein, and the Process of the said Court, both at Common Law and in Equity, shall run in and be executory throughout the Counties of Devon and Cornwall, and the Forms and Customs of Procedure as now lawfully used and exercised in the Stannaries of Cornwall (subject nevertheless to such Amendments or Provisions as are contained in or may be authorized by this Act, and to all other lawful Rules and Orders of the Court,) shall henceforth be adopted, used, and enforced in and throughout the Stannaries and County of Devon, and the Stannaries of the said Two Counties shall be and become, for the Purposes of Stannary

Stannary Jurisdiction, One entire District, and the present and all future Vice-Wardens of the Stannaries shall be Vice-Wardens of the Stannaries of and for both Counties, and shall have therein all the like Powers, Privileges, Authority, and Jurisdiction over and in respect of Mines and Miners, and Causes touching the same, in Devon as in Cornwall, and all Miners and others interested in Mines in Devon shall have the Privilege to sue and be sued at Law and in Equity in the Court of the Vice-Warden, and be amenable to the said Court and Vice-Warden, as well by reason of the Person as of the Cause, in like Cases and for like Causes in and for which the Miners and others interested in Mines in Cornwall now have such Privilege or are amenable to the said Court and Vice-Warden: Provided always, that the Common Law Jurisdiction of the Vice-Warden in respect of Causes of Action arising in Devon shall not extend to or be exercised in the County of Devon or to or over Miners therein, except in Causes and in respect of Matters relating to Mines or the Products thereof or Works connected therewith, or to the Working or Management thereof, or the Supply of Materials, Money, or Necessaries, or Performance of Work and Labour to, for, or in respect of such Mines or Works, or relating to the Customs of Mining or Miners, or to Shares or Interests in any Mine or Adventure in Mines.

CLAUSE C. The Vice Warden to sit in Devonshire when sufficient Funds shall be provided for such Sitting.

XXXIII. And whereas it will be convenient that Provision should be made for periodical Sittings of the Court in Devonshire as well as in Cornwall: Be it enacted, That if and when it shall appear to the Council of His Royal Highness the Prince of Wales, or the Special Commissioners for managing the Affairs of the Duchy for the Time being, that the Revenue annually arising from the Assessment hereinafter authorized on Mines in Devonshire will amount to the Sum of Three hundred and twenty Pounds at the least, over and above the Expense of Collection, the said Council or Commissioners shall have Power to direct that Sittings be held by the Vice-Warden in Devonshire, and thereupon the Vice-Warden shall so sit, either by Adjournment from Truro or otherwise, at least Four Times in each Year, as he has heretofore been accustomed to do in Cornwall, and he shall hold his Sittings either at Plymouth, Devonport, Stonehouse, or Tavistock in the said County, as to him shall seem fit, subject to the Power of Adjournment in certain Cases, as herein-before provided, and for that Purpose shall have Authority to use and occupy the Public Halls of the said Boroughs, or some other convenient Building provided for such Sittings, at such convenient Times and in such Way as may not interfere with other necessary public Business usually transacted therein, and in that event the said Council or Commissioners shall direct in what Manner, and on what Conditions, Terms,

and Tenure, Monies arising from such Assessment, or any Part thereof, shall be appropriated, either among the present Officers of the Court and their Successors, or to the Deputies who (with the Assent and Approval of the Vice-Warden) may be employed by such Officers to execute their Duties or any Part of their Duties, when the Court shall be sitting in Devonshire, or to new or additional Officers and Clerks, or towards the general Expenses of the Court, so as best to secure the due Performance of the additional Duties and increased Business occasioned by the Extension of the Jurisdiction, and to indemnify the present Officers of the Court for any Expenses to which they may be put by Attendance elsewhere than at Truro, and Payment shall be made according to such Appropriation, and it shall be competent for the Council or Commissioners, at the Recommendation of the Vice-Warden, to vary such Appropriation, having due Regard to the Exigencies of Business in the said Court, and the Amount of Funds applicable to the Expenses thereof.

CLAUSE D. Collector in Devonshire.

XXXIV. There shall be a Collector of the Assessments in the County of Devon, to be appointed by the Vice-Warden, with like Duties and Liabilities as in Cornwall, who shall receive for such Collection, out of the Monies so collected, an annual Sum not exceeding Thirty Pounds, and shall hold his Office at Will, and it shall be lawful for the Vice-Warden to appoint the same Person to be Collector in both Counties, and to appoint Bailiffs for Service and Execution of Process throughout the whole District of both Stannaries.

CLAUSE E. Jurors to be qualified as at Assizes.

XXXV. All Jury Trials, whether in Actions, Suits, or Plaints, on the Common Law Side of the Court, arising in the County of Devon, or in Issues from the Equity Side, shall be by Persons qualified to serve as Jurors before the Justices of Assize and Nisi Prius in the said County; and for making out Lists of such Jurors, and summoning them, the Vice-Warden shall have and execute the like Powers as in Cornwall; and the Persons so qualified to serve shall be liable to challenge, and amenable to the Process of the said Court, and enjoy the same Exemptions in respect of their Attendance and Service as in the Stannaries of Cornwall: Provided nevertheless, that until the Vice-Warden shall receive the Directions of the said Council or Commissioners, as above provided, to hold Sittings in the County of Devon, it shall not be obligatory on him to hold any Sittings there, nor shall it be obligatory on Persons qualified to serve as Jurors in the Vice-Warden's Court in Devonshire to give their Attendance as such at any Court held by him in that County or elsewhere, nor shall any Cause arising in Devonshire, and pending before any County Court Judge there, be remitted for Trial or Hearing before the Vice-Warden,

No Sittings in Devon till Duchy Council or Commissioners shall direct.

as

as herein-before provided; and in the meantime the said Council or Commissioners shall direct in what Manner and in what Proportions the Revenue arising from Fees and Assessments in respect of Causes and Mines in the County of Devon shall be applied towards Court or Office Expenses, or Payment of the present or additional Official Salaries.

CLAUSE F. Assessment of Mines and Minerals in Devon.

XXXVI. And for the Purpose of providing for the Expenses attendant upon the Extension of the Jurisdiction of the Court into Devon, there shall be an Assessment of a Farthing in the Pound on the Value of all Metals and Minerals in that County, as in Cornwall, and all the Enactments contained in this and any other Act of Parliament for obtaining and enforcing Returns, and levying and collecting the said Assessment, in Cornwall, shall be taken to apply to the like Assessment in Devon, and the Collector thereof shall account for all Monies received by him as in Cornwall, and such Assessment shall begin at the passing of this Act, and be collected for the First Time at the End of Three Calendar Months next after the passing of this Act; provided, that whenever it shall appear to the Vice-Warden, on auditing the Registrar's Accounts, that there is a Balance in hand sufficient to meet all authorized Payments for the next Half Year, the like Notice thereof and Suspension of Assessment shall take place as in the Assessment in Cornwall; and the Registrar of the Court shall keep a separate Account of all Fees and Monies coming into his Hands in respect of Causes and Matters arising in the County of Devon, and in respect of the Assessment of Metals and Minerals in that County, and shall render Accounts to the Vice-Warden as in Cornwall, and shall be allowed in his half-yearly Account, as well the additional Salaries and Sums lawfully chargeable thereon, as herein-before provided, as the reasonable and needful Expenses of advertising and holding Courts and summoning Jurors in the County of Devon (if any be held), and of lighting, warming, cleaning, watching, and keeping the Court, and an Office there (if any), and other like petty Expenses, as allowed in the County of Cornwall, and the Amounts so audited shall be filed, and be open for Inspection, as is now used in the said Court.

CLAUSE G. Commitment of Prisoners in Devonshire.

XXXVII. Persons committed to Prison by the Vice-Warden in respect of Causes or Contempts in the County of Devon shall be committed and taken either to the County Gaol at Exeter or the Borough Gaol of Plymouth or Devonport, as shall appear to the Vice-Warden most expedient in each Case, and shall be received, dealt with, maintained, supported, and provided for as if they had been committed to those Prisons by like Process out of the Superior

Courts of Law or Equity at Westminster, or by any Court of Civil Jurisdiction held in or for the Borough of Plymouth or Devonport.

CLAUSE H. Provision for the eventual Establishment of a separate Court in Devonshire.

XXXVIII. Whenever it shall hereafter appear that a sufficient Fund shall be provided in the Stannaries of Devon for the Establishment of a permanent separate Court and a separate Office and Officers in and for a Vice-Warden's Court in the County of Devon, it shall be lawful for Her Majesty, by Order in Council, issued at the Instance of the said Council of His Royal Highness, or the Special Commissioners, as aforesaid, to direct that such Court and Office shall be erected and established on the Model of the Vice-Warden's Court as now constituted in Cornwall, and to declare that all Provisions of the present Act, and of the several Acts for the Establishment of the said Court in Cornwall, so far as they shall be applicable to such new Court in the County of Devon, shall be deemed and taken to be in force in the last-mentioned County, and to assign Salaries to the several Officers of the said Court, not exceeding the Salaries appointed before or at the passing of this Act for the like Officers in the County of Cornwall, and to declare what Proportion of the Salary now payable to the Vice-Warden of the Stannaries shall thenceforth be contributed out of the Revenue arising in the County of Devon if the same Vice-Warden shall be appointed for both Courts, and to make such other Regulations as shall be necessary or expedient for effectually establishing and providing for such separate Court and Office; and thereupon, on the Promulgation of the said Order in Council, the said separate Court and Office shall be and become permanently established in the County of Devon, as fully and effectually as if the same had been established and confirmed by Act of Parliament; and all Provisions made by this Act, or by the Council of His Royal Highness, or the said Special Commissioners, under the Authority of this Act, for the Extension of the Jurisdiction of the present Court into the County of Devon, shall cease, save only that the Process of the Court in each County in Causes arising in that County shall be executory and executed in and throughout both Counties.

Court Amendment.

A

BILL

[AS AMENDED IN COMMITTEE]

INTITULED

An Act to amend and extend the Jurisdiction of the Stannary Court.

(*Brought from the Lords* 9 *May* 1855.)

Ordered, by The House of Commons, *to be Printed*, 5 *June* 1855.

[Bill 154.]

Under 4 *oz.*

14 *December* 1854. 18 VICT.

(Ireland.)

A

B I L L

TO

Consolidate and simplify the Laws relating to Jurors and Juries in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS it is expedient to consolidate and simplify the Laws regulating the Qualification, the Formation, and the summoning of Juries in Ireland: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That— Preamble.

I. From and after the Commencement of this Act the Sheriff or other Officer of any County, County of a City, or County of a Town shall not, in answer to any Precept for the Return of Jurors, return the Name of any Person to serve as a Juror, save pursuant to the Provisions of this Act. Sheriff not to return any Juror, save according to this Act.

II. Every Man, except as herein-after excepted, between the Ages of *Twenty-one* Years and *Sixty* Years, residing in any County, City, or County of a City, County of a Town, or Parliamentary Borough within any County in Ireland, who shall be, either in his own Name or as Age and Qualification of Jurors. 3 & 4 W. 4. c. 91. s. 1. 6 G. 4. c. 50. s. 1.

as a Member of a Firm or Copartnership, rated for the Relief of the Poor in respect of Property within such County, County of a City, County of a Town, or Parliamentary Borough within such County, of the yearly Value of *Twenty Pounds* or upwards, or whose Name shall appear in the List of Parliamentary Voters for such County, County of a City, or County of a Town, duly revised and signed, and lodged and in the Possession of the Clerk of the Peace for such County, and of the Clerk of the Peace or Town Clerk of or acting in or for the said City, County of a City, or County of a Town, as a Freeholder, or Lessee or Assignee of a Lease of any Lands, Tenements, or Hereditaments of the yearly Value of *Twenty Pounds* or upwards, shall be qualified as to Property, and liable to serve on Juries for the Trial of all Issues, Civil and Criminal, joined in any of the Queen's Courts of Record in Dublin, and in all Courts of Assize, Nisi Prius, Oyer and Terminer and Gaol Delivery, such Issues being respectively triable in the County, City, County of a City, or County of a Town in which every Man so qualified with respect to Property shall reside, and shall also be qualified as to Property and liable to serve on Grand Juries in the Courts of General Sessions of the Peace and on all Juries for the Trial of all Issues, Civil and Criminal, joined in the said Court of General Sessions of the Peace, or Civil Bill Courts of such County or Riding, City, or County of a City, or County of a Town, and triable in the County, Riding, District, or Division, City, County of a City, or County of a Town in which every Man so qualified shall reside, and shall also be qualified and liable to serve upon every Inquest and on every Inquiry to be taken or made by or before any Sheriff or Coroner by virtue of any Writ of Inquiry or Statute, or by or before any Commissioner appointed under the Great Seal or the Seal of the Court of Exchequer: Provided always, that as regards the County of the City of Dublin, in addition to the Persons herein-before declared to be qualified as to Property and liable to serve on Juries of such County of the City, any Person, except as herein-after excepted, between the Ages of *Twenty-one* Years and *Sixty* Years, who shall have or occupy a Counting-house, Office, or Place of Business or Resort in such County of the City, and who shall be rated for the Relief of the Poor in respect of Property situate within *Seven* Statute Miles of the Queen's Courts in Dublin, and either separately or jointly with such Counting-house, Office, or Place of Business, to the Amount aforesaid, shall be qualified in respect of Property and liable to serve on all such Juries as aforesaid for the County of the City of Dublin, and upon all Juries to be summoned to attend before the Master of any of the Superior Courts of Law there for the Trial of any Issue or the Assessment of any Damages before such Master, and every Person in any Manner hereby qualified in respect of

35 G. 3. c. 29.
37 G. 3. c. 47.
10 G. 4. c. 8.
13 & 14 Vict. c. 69.

16 & 17 Vict. c. 113. ss. 98. 101.

of Property and made liable to serve on Juries for the said County of the City of Dublin shall be deemed to be resident therein, although such Person may not actually reside therein, provided that he reside within *Seven* Statute Miles of the Queen's Courts in Dublin, the said Distance of *Seven* Statute Miles to be computed by the nearest public Roads or Way; and no Man shall be summoned or impannelled to serve as a Juror in any County, City, or Town in Ireland upon any Inquest or Inquiry to be taken or made by or before any Sheriff or Coroner by virtue of any Writ of Inquiry, or by or before any Commissioners appointed under the Great Seal, or the Seal of the Court of Exchequer, who shall not be duly qualified according to this Act to serve as Jurors upon Trials at Nisi Prius in such County, City, or Town: Provided also, that nothing herein contained shall extend to any Inquest of the Death of any Person to be taken by or before any Coroner by virtue of his Office, or before any Justices of the Peace, but that the Coroners and Justices in such Cases to which this Act doth not extend as aforesaid shall and may respectively take and make all Inquests and Inquiries by Jurors of the same Description as they have been used and accustomed to do before the passing of this Act.

Qualification of Jurors on Writs of Inquiry, &c. 3 & 4 W. 4. c. 91. s. 40.

Exceptions for Coroners Inquest, 9 & 10 Vict. c. 37. s. 23.

III. All Peers and Privy Councillors; all Judges of the Queen's Courts of Record in Dublin; all Clergymen in Holy Orders; all Persons who shall teach or preach in any Religious Congregation; all Serjeants and Barristers at Law, actually practising; all Assistant Barristers; all Judges of Ecclesiastical Courts; all Advocates in Ecclesiastical Courts or in Courts of the Civil Law, actually practising; all Attorneys, Solicitors, and Proctors duly admitted in any Court of Law or Equity, or of Ecclesiastical or Admiralty Jurisdiction, in which Attorneys, Solicitors, and Proctors have usually been admitted, actually practising, and having duly taken out their annual Certificates; all Officers of any such Courts, or of any Court of Criminal Jurisdiction, actually exercising the Duties of their respective Offices; all Public Notaries duly admitted; all Coroners, Gaolers, and Keepers of Houses of Correction; all Members and Licentiates of the King and Queen's College of Physicians in Ireland, actually practising, and all other Physicians actually practising; all Surgeons, being Members of One of the Royal Colleges of Surgeons in London, Edinburgh, or Dublin, or of the University of Dublin, or of the Queen's University in Ireland, and actually practising; all Apothecaries certified by the Court of Examiners of the Governor and Company of the Apothecaries Hall of the City of Dublin, and actually practising; all Officers in Her Majesty's Navy or Army on Full Pay or serving in the Militia; all Officers of Customs and Excise; and all Masters of Vessels; and all Pilots licensed under any Act of Parliament or Charter

Exemptions from serving on Juries, 3 & 4 W. 4. c. 91. s. 2.

for the Regulation of Pilots in any Port; all stipendiary or paid Magistrates; all Sheriffs Officers, Police Constables, and Parish Clerks, and Clerks of Petty Sessions; all Postmasters General and their Deputies, and all other Persons employed and acting in the Service of Her Majesty's Post Office; all Treasurers and Secretaries of Grand Juries; all Persons holding any Appointment in or connected with the Constabulary or Police Forces in Ireland; all County Surveyors and their Assistants and Clerks; all Inspectors of Prisons in Ireland; and all Inspectors and Sub-Inspectors of Factories in Ireland; all Publicans and other Persons licensed to sell Spirits by Retail to be consumed on the Premises, shall be and are hereby absolutely freed and exempted from being returned and from serving upon any Juries or Inquests whatsoever, and shall not be inserted in the Lists to be prepared by virtue of this Act as herein-after mentioned: Provided always, that nothing herein contained shall be construed to exempt Persons appointed Commissioners for taking Affidavits in any of the Superior Courts of Law or Equity from serving as Jurors if they are in other respects qualified; provided also, that all Persons exempted from serving upon Juries in any of the Courts aforesaid, by virtue of any Prescription, Charter, Grant, Writ, or particular Local Acts, shall continue to have and enjoy such Exemption in as ample a Manner as before the passing of this Act, and shall not be inserted in the Lists herein-after mentioned.

2 & 3 Vict. c. 75. s. 22. 6 & 7 W. 4. c. 116. s. 44 7 & 8 Vict. c. 15. s. 2.

3 & 4 Vict. c. 108. s. 180. Officer of Police, &c. disqualified.

IV. Every Officer of Police, and the Treasurer and the Town Clerk for the Time being of every County of a City or County of a Town, shall be exempt and disqualified from serving on any Jury summoned within such County of a City or County of a Town respectively, save and except the Juries summoned for an Assize or Gaol Delivery.

See 6 G. 4. c. 60. s. 48., 3 & 4 W. 4. c. 91. s. 38.

V. No Justice of the Peace shall be summoned or impannelled as a Juror to serve at any Sessions of the Peace for the Jurisdiction of which he is a Justice.

Aliens, Convicts, or Outlaws, &c. disqualified. 3 & 4 W. 4. c. 91. s. 3. 6 Geo. 4. c. 50. s 3.

VI. No Man, not being a natural-born Subject of the Queen, is or shall be qualified to serve on Juries or Inquests, except only in Cases herein-after expressly provided for; and no Man who hath been or shall be attainted of any Treason or Felony, or convicted of any Crime that is infamous, unless he shall obtain a free Pardon, nor any Man who is under Outlawry by virtue of any Criminal Process, nor any Man who shall have been convicted within *Seven* Years of any Offence against the Act passed in the Session of Parliament holden in the First and Second Years of the Reign of His late Majesty King William the Fourth, Chapter Forty-four, or of any Crimes resulting from

from illegal Combination, and who have undergone Punishment, is or shall be qualified to serve on Juries or Inquests in any Court or on any Occasion whatsoever.

Juries de medietate Linguæ. 3 & 4 W. 4 c. 91. s. 37. 6 G. 4. c. 40. s. 57.

VII. Nothing herein contained shall extend or be construed to extend to deprive any Alien indicted or impeached of any Felony or Misdemeanor of the Right of being tried by a Jury de medietate Linguæ, but that on the Prayer of every Alien so indicted or impeached the Sheriff or other proper Minister shall, by Command of the Court, return for *One Half* of the Jury a competent Number of Aliens, if so many there be in the Town or Place where the Trial is had, and if not then so many Aliens as shall be found in the same Town or Place, if any; and that no such Alien Juror shall be liable to be challenged for Want of Qualification required by this Act, but every such Alien may be challenged for any other Cause, in like Manner as if he were qualified by this Act.

"General List of Jurors and Jurors Books," from which Jurors for Trials, Civil and Criminal, are to be selected. Vide Report of Committee on Crime and Outrage in Ireland. 13 & 14 Vict. c. 69. ss. 17. 63, 64.

VIII. Each and every Clerk of the Peace or Town Clerk of or acting in or for each and every County, City, County of a City, or County of a Town in Ireland, or his Deputy, shall from Time to Time, as soon as the several and respective Lists of Parliamentary Voters for such respective County, City, County of a City, or County of a Town shall have been duly revised and signed, and transmitted to such Clerk of the Peace or Town Clerk, by the Assistant Barrister, or the Person acting for him, under the Provisions of the Act passed in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Sixty-nine, in each and every Year make out a true and correct List, in alphabetical Order, of the Names of all Persons who shall appear on such respective revised Lists of Voters as Persons having Estates of Freehold, or as Lessees or Assignees of Leases in Lands, Tenements, or Hereditaments of the annual Value of not less than *Twenty Pounds*, and situate within such County, City, County of a City, or County of a Town, and the Town Clerk of any City, County of a City, or County of a Town making such List shall forthwith transmit the same to the Clerk of the Peace for such City, County of a City, or County of a Town respectively, and each Clerk of a Union for the Relief of the Poor in Ireland wholly in part within the Limits of any County, City, County of a City, or County of a Town shall (and he is hereby required so to do) from the Rate Books of his Union make out and transmit to the Clerk of the Peace of each County, City, County of a City, or County of a Town into which any Part of such Union extends, between the *First Day of October* and *First Day of November* a List, in alphabetical Order, of every Man appearing therein to be qualified and liable to serve on Juries, pursuant

suant to the Provisions of this Act, and such List shall be in the Form specified in Schedule (A.) to this Act annexed, and he shall deliver the same to such Clerk of the Peace on or before the *Sixth Day of November* in the said Year; and each of the said Clerks of the Peace in and for each County, City, and Town in Ireland, on or before the *First Day of December* in each Year, shall and he is hereby required to cause One general printed List, arranged according to Rank and Property, to be made out from the said Lists so made by and furnished to him as aforesaid, of all the Persons in the said several Lists contained, and which List when so made shall be called "The General List of Jurors," and shall be according to the Form (2.) in Schedule (A.) to this Act annexed, and shall contain in proper Columns the Christian Name and Surname written at full Length, the true Place of Abode, the Title, Quality, Calling, or Business, annual Value of Freehold or Leasehold, or Amount of Rating, and the Townland or Denomination, Street, Lane, and the Place where the Property is situated, or Name of the Property in respect of which such Person has been rated to the Relief of the Poor; and such List shall at the Foot of each Page thereof, and also at the Foot thereof, be signed by the Clerk of the Peace or his Deputy, under his Hand; and which "List" shall be kept among the Records of the County, City, County of a City, or County of a Town respectively; and such Clerk of the Peace or his Deputy shall allow such List to be inspected at all reasonable Times in his Office, without Fee or Reward; and the Clerk of the Peace as aforesaid, or his Deputy, shall cause such "General List of Jurors" to be truly and fairly copied, in the same Order in which the Names shall be arranged in the said "General List," in a Book to be by him provided for that Purpose at the Expense of the County, City, County of a City, or County of a Town respectively, and shall on or before the *Eighteenth Day of December* in each Year deliver the same Book to the Sheriff of the County, City, County of a City, or County of a Town, or his Under Sheriff, duly certified by such Clerk of the Peace, which Book shall be called "The Jurors Book" for the Year (inserting the current Year for which such Book is to be in use), and every Sheriff on quitting his Office shall deliver the same to the succeeding Sheriff; and every "Jurors Book" so prepared shall be brought into use on the *First Day of February* after it shall have been so delivered by the Clerk of the Peace or his Deputy to the Sheriff or his Under Sheriff, and shall be used for *One Year* then next following: Provided always, that the "Jurors Book" of the County of Dublin and County of the City of Dublin respectively shall be brought into use on the *First Day of January* after such Book shall have been so delivered to the Sheriff of the County of Dublin and Sheriff of the City of Dublin respectively.

Clerk of the Peace to prepare General Lists.

See 8 & 9 Vict. c. 67. s. 3.

See 3 & 4 W. 4. c. 91. s. 11. 6 G. 4. c. 50. s. 12.

General List of Jurors to be copied into a Book to be called "The Jurors Book," to be delivered to the Sheriff.

"Jurors Book of the County of Dublin and County of the City of Dublin."

IX. Each

IX. Each and every Clerk of the Peace of or acting in or for each and every County, City, County of a City, County of a Town, or his Deputy, shall, as soon as he has made out in manner and form aforesaid the said "General List of Jurors," make out a List, in alphabetical Order, of the Names of all Persons who shall appear in such "General List of Jurors" either as having Freeholds of the annual Value of not less than *Fifty Pounds*, or as being himself, or as a Member of a Firm or Copartnership, rated to the Relief of the Poor in respect of Lands, Tenements, and Hereditaments within such respective County, County of a City, or County of a Town, or in the Case of the County of the City of Dublin, within *Seven* Statute Miles of the Queen's Courts therein, of the net annual Value of not less than *Sixty Pounds*, and shall prefix to every Name in such List its proper Number, and which List when so made out shall be called "The General List of Special Jurors," and shall be according to the Form in Schedule (B.) to this Act annexed, and shall contain in proper Columns the Christian Name and Surname, written at full Length, the true Place of Abode, the Title, Quality, Calling or Business, Value of Freehold, or Amount of Rating, and the Townland or Denomination, Street, Lane, and Place where the Property is situated, and such "List" shall at the Foot thereof be signed by the Clerk of the Peace or his Deputy, under his Hand, and which "List" shall be kept amongst the Records of the County, City, County of a City, or County of a Town, to be inspected, and the Clerk of the Peace shall cause such "General List of Special Jurors" to be duly and fairly copied into a Book to be by him provided for that Purpose at the Expense of the County, City, County of a City, or County of a Town respectively, and shall on or before the *Eighteenth Day of December* in each Year deliver the same to the Sheriff of the County, City, County of a City, or County of a Town, or his Under Sheriff, duly certified by such Clerk of the Peace, Town Clerk, or his Deputy, which Book shall be called "The Special Jurors Book" for the Year
(inserting the Year for which it is to be used), and every Sheriff on quitting his Office shall deliver the same to the succeeding Sheriff; and every "Special Jurors Book" so prepared shall be brought into use on the *First Day of February* after it shall be so delivered by the Clerk of the Peace to the Sheriff or his Under Sheriff, and shall be used for *One Year* then next following: Provided always, that the "Special Jurors Book" of the County of Dublin and County of the City of Dublin respectively shall be brought into use on the *First Day of January* after such Book shall have been so delivered to the Sheriff of the County of Dublin and County of the City of Dublin respectively.

"Special Jury List" and "Special Jurors Book." See 3 & 4 W. 4. c. 91. s. 24.

The Court of Queen's Bench or any Judge thereof empowered to correct the said Lists and Books. See 8 & 9 Vict. c. 67. s. 4.

X. Provided always, That if the said "General List of Jurors," "Jurors Book," "General List of Special Jurors," or "Special Jurors Book" shall be found to contain any Name which shall not be contained in the said "revised and signed Lists of Parliamentary Voters," or in the said "Rate Book," or if any Name of any Person qualified as provided by this Act which shall be contained in any of such revised and signed Lists of Parliamentary Voters, or in the said Rate Books, shall not appear in such "General List of Jurors," "General List of Special Jurors," or "Jurors Book," or Special Jurors Book," according to the Provisions and Directions aforesaid, it shall be lawful for Her Majesty's Court of Queen's Bench in Dublin, or any Judge of the said Court, upon Complaint thereof made to the said Court or Judge, to order the said Sheriff or Under Sheriff and the Clerk of the Peace or Town Clerk or Clerk of Union respectively to produce the said "revised and signed Lists of Voters," the said "Rate Book," the said "General List of Jurors," "General List of Special Jurors," and the said "Jurors Books," and the said "Special Jurors Books" (according to the Nature of the Complaint) to the said Court or Judge, and if upon Inspection of the said "General List of Jurors," or "General List of Special Jurors," or the said "Jurors" or "Special Jurors Book," and the said revised and signed Lists, or Rate Book, any such Error shall be found in the said "General List of Jurors," "General List of Special Jurors," or "Jurors Book," or "Special Jurors Book," the said Court or Judge shall order the same to be amended, and such Amendment shall be forthwith made and signed by the said Sheriff or Under Sheriff and Clerk of the Peace, in the Presence of the said Court or Judge.

Persons over Sixty Years may apply to have their Names struck out.

XI. It shall be lawful for any Person whose Name shall have been inserted in any Jurors Book formed under the Provisions of this Act, being then above the Age of *Sixty* Years, or otherwise exempted from serving on Juries under the Provisions of this Act, to apply to Her Majesty's Court of Queen's Bench in Dublin, or any Judge of the said Court, or to the Court of the Assistant Barrister or Recorder for the County, County of a City, or County of a Town for which such Jurors Book shall have been so formed, next after the same shall have been so formed, that such Person's Name may be removed from such Jurors Book, on the Ground that such Person was above *Sixty* Years of Age, or otherwise entitled to Exemption, when his Name was so inserted therein; and if the said Court or Judge shall, on the Oath or Affidavit of such Person, or otherwise, be satisfied that such Person was above *Sixty* Years of Age, or otherwise entitled to Exemption, at the Time when his Name was so inserted in such Jurors Book, it shall be lawful for such Court to make an Order in Writing directing the Sheriff of such County, County of a City, or County

County of a Town to expunge such Person's Name from such Jurors Book, and such Sheriff shall expunge the same accordingly: Provided also, that so long as such Person's Name shall be and remain in such Jurors Book, and such Book shall be in force, the Fact of his being above the Age of *Sixty* Years, or otherwise entitled to Exemption, shall not be deemed a legal Ground for such Person claiming Exemption or being exempt from serving on any Jury, and shall not be a legal Ground of Objection, by Challenge or otherwise, to such Person's serving on any Jury.

Grand Juries empowered to present the Expenses of Lists and Jurors Books. See 8 & 9 Vict. c. 57. s. 6.

XII. It shall and may be lawful for the Grand Jury of each County, County of a City, and County of a Town, and for the Town Council of each County of a City or County of Town, empowered to make Presentments in lieu of Grand Juries, as the Case may be, from Time to Time, at the next ensuing Assizes or Presenting Term, and they are hereby required, without previous Application at Presentment Sessions or otherwise, to present such Sum of Money as they shall deem reasonable for defraying the Expense of making all such Lists and Books as are hereby directed to be made.

Judges of Assizes, Chairman of Sessions, and Recorders to issue their Precept to the Sheriff to summon Jurors. See 16 & 17 Vict. c. 113. s. 109.

XIII. The Judges of Assize, Judges under a Commission of Oyer and Terminer, Assistant Barristers, Chairmen of the General Sessions of the Peace, and Recorders of Counties of Cities and Counties of Towns other than of the City of Dublin, shall issue a Precept to the respective Sheriffs of such Counties, Cities, Counties of Cities, and Counties of Towns, in such Precepts requiring them to summon for the Trial of all Issues, whether Civil or Criminal, which may come on for Trial, at the Assizes or General Sessions of the Peace or other Sittings, a sufficient Number of the most competent Persons named in the "Jurors Book" so to be delivered by the Clerk of the Peace, selecting, so far as may be practicable, having regard to their Competency, the Names of such Jurors as shall not have been summoned, and attended as such, at the last preceding Assizes or Sessions; and all such Jurors shall thereupon be summoned in manner herein-after mentioned to form One Panel, and to serve indiscriminately on the Criminal and Civil Side; and a printed Panel of the Jurors summoned shall, *Seven* Days before the Commission Day and First Day of such General Sessions or Sittings (as the Case may be), be made by the Sheriff, and kept in the Office of the Sheriffs of the said several and respective Counties, Cities, Counties of Cities, and Counties of Towns, and of the respective Returning Officers in Dublin, for Inspection; and a printed Copy of such Panel shall be delivered by the Sheriff or Under Sheriff to the Party requiring the same, on Payment of a Fee of *One Shilling;* and

See 6 G. 4. c. 50. s. 22.

16 & 17 Vict. c. 113. s. 110.

See 16 & 17 Vict. c. 113. s. 110.

3 & 4 W. 4. c. 91. s. 11.

such printed Panel shall, in Civil Cases in the Superior Courts, be annexed to the Abstract of the Record for Nisi Prius: Provided always, that nothing herein contained shall be construed to prevent any Sheriff, in making Returns to any Precept, from exercising his Discretion in framing the Panel annexed to such Returns, in such Manner as he is now by Law directed to do, save only so far as to compel him to return at least the Number directed by such Precept.

Sheriff of the County and City of Dublin to summon a sufficient Number of Jurors Seven Days before their Attendance is required. See 16 & 17 Vict. c. 113. s. 111.

XIV. The Sheriffs of the County of Dublin and County of the City of Dublin respectively shall, pursuant to a Precept under the Hand of a Judge of any of the Superior Courts of Common Law, and, when required for the Recorder's Court, under the Hand of the Recorder of the City of Dublin and without any other Authority, summon a sufficient Number of the most competent Persons named in the Jurors Book for the County of Dublin, and the said County of the City of Dublin respectively, at least *Seven* Days before they shall be required, to attend for the Trial of all Issues, Civil and Criminal, to be tried in the Superior Courts of Common Law and the Consolidated Nisi Prius, or in the Court of Commission, Oyer and Terminer, and Recorders Courts of the City of Dublin; and the said Jurors for the Trial of County Cases in the said several Courts shall be taken from the "Jurors Book," as herein-before mentioned, and so delivered by the Clerk of the Peace of the County of Dublin, and the said Jurors for the Trial of all City Cases shall be taken from the said "Jurors Book" as herein-before mentioned, and so delivered by the Clerk of the Peace of the City of Dublin; and the Names of the said Jurors shall be selected from the said respective "Jurors Book" by the said respective Sheriffs, who shall, so far as may be practicable, having regard to their Competency, return the Names of such Jurors as shall not have been summoned and attended at the last preceding Sittings, Commission, or Sessions; and all such Jurors shall be summoned in the Manner herein-after mentioned; and a printed Panel of the Jurors summoned shall, *Seven* Days before the Day fixed for their Attendance for the Trial of the said Issues in the said several Courts, be made by the said respective Sheriffs of the County of Dublin and County of the City of Dublin, and kept in the Office of the said Sheriffs respectively, for Inspection; and a printed Copy of such Panel shall be delivered to the Party requiring the same, on Payment of a Sum of *One Shilling;* and such printed Panel shall in Civil Cases in the said Superior Courts be annexed to the Abstract for Nisi Prius; and the said Precept shall and may be in like Form as the Precept issued by the Judges of Assize, and One thereof shall suffice for each Term or Sittings after, or Commission of Oyer and Terminer, in such County or County of the City of Dublin,

Dublin, or Recorder's Court, and for all the Superior Courts of Common Law.

XV. It shall be the Duty of all Sheriffs to apply for and procure such Precepts to be issued in sufficient Time to enable them to summon the Jurors in manner aforesaid; and it shall be lawful for the said several Courts, or any Judge thereof, at any Time to issue such Precept or Precepts to summon Jurors for disposing of the Business pending in such Courts, and to direct the Time and the Place for which such Jurors shall be summoned, and all such other Matters as to such Judge shall seem requisite. See 16 & 17 Vict. c. 113 s. 111.

XVI. Every Precept issued for a Special Jury shall direct the Sheriff to summon a sufficient Number of Special Jurymen, to be mentioned therein, not exceeding in Country Cases *Forty-eight* in all, to try the Special Jury Causes at the Assizes or in the several Superior Courts of Common Law in Dublin respectively; and the Persons summoned in pursuance of such Precept shall be the Jury for trying the Special Jury Cases at the Assizes or After-sittings respectively, subject to such Right of Challenge as the Parties are now by Law entitled to in the like Cases, and subject to the like Liability as to the Payment of the Costs of obtaining such Special Jury; and a printed Panel of the Special Jurors so summoned shall be made, kept, delivered, and annexed to the Abstract of Nisi Prius, in like Time and Manner and upon the same Terms as herein-before provided with reference to the Panel of Common Jurors; and upon the Trial the Special Jury shall be balloted for and called in the Order in which they shall be drawn from the Box, in the same Manner as Common Jurors; provided that the Court or a Judge, in such Case as they or he may think fit, may order that a Special Jury be struck in the Manner herein-after mentioned; (that is to say,) within Days after the Rule of the Court or Judge directing such Special Jury to be struck shall have been served on the Sheriff or Under Sheriff of the County, City, County of a City, or County of a Town in which any Trial is to be had, such Sheriff or Under Sheriff shall deliver to the Officer of the Court by which such Order shall have been made a correct Court Copy of the "Special Jurors Book," as furnished by the Clerk of the Peace of such County, County of a City, or County of a Town, with a Number prefixed to every Name in such Book; and the said Officer, at the Time and Place appointed by him for that Purpose, shall cause the said several Numbers to be written on distinct Pieces of Parchment or Cards, and shall, in the Presence of all Parties, in any of the Cases aforesaid, and of their Attornies, if they respectively choose to attend, or if the said Parties or their Attorneys, all or any of them, do not attend, then in their Absence, put all the said Numbers into a Box,

Precept to Summon Special Jurors in Counties, &c. See 16 & 17 Vict. c. 113. s. 112.

Striking Special Juries. See 3 & 4 W. 4. c. 91. s. 25.

Box, to be by him provided for that Purpose, and after having shaken them together shall draw out of the said Box *Twenty-four* of the said Numbers, one after another, and shall, as each Number is drawn, refer to the corresponding Number in the said Copy of such "Special Jurors Book," and read aloud the Name designated by such Number; and if at the Time of so reading any Name either Party or his Attorney shall object that the Person whose Name shall have been so referred to is in any Manner incapacitated from serving on the same Jury, or otherwise legally objectionable, and shall also then and there prove the same to the Satisfaction of the said Officer, such Name shall be set aside, and the said Officer shall instead thereof draw out of the said Box another Number, and shall in like Manner refer to the corresponding Number in the said Copy of such "Special Jurors Book," and read aloud the Name designated thereby, which Name may be in like Manner set aside, and other Numbers and Names shall in every such Case be resorted to, according to the Mode of proceeding herein-before described, for the Purpose of supplying Names in the Places of those set aside, until the whole Number of *Twenty-four* Names not liable to be set aside shall be completed; and if in any Case it shall so happen that the whole Number of *Twenty-four* Names cannot be obtained from the "Special Jurors Book," then and in that Case the said Officer shall fairly and indifferently take, according to the Mode of Nomination heretofore pursued in nominating Special Juries, such a Number of Names from the "General Jurors Book" which such Sheriff is hereby required to produce, if called upon to do so, by such Officer, as shall be necessary to make up the full Number of *Twenty-four* Names, all and every of which *Twenty-four* Names shall in such Case be equally deemed and taken to be those of Special Jurors; and the said Officer shall afterwards make out for each Party a List of the *Twenty-four* Names in the Order in which they shall have been drawn as aforesaid, together with their respective Places of Abode and Additions; and all other Matters whatsoever relating to Special Juries shall remain and continue in force as heretofore, except where the same or any Part thereof are expressly altered in this Act.

Precept to summon Jurors. See 16 & 17 Vict. c. 113. s. 109.

XVII. No Jury Process shall be necessary or used in any Action, but the Precept issued by the Judges of the Superior Courts, Judges of Assize, Assistant Barrister, or Chairman of Quarter Sessions, or Recorder of any City, to the Sheriff, to summon Jurors for the Superior Courts, Assizes, Court of Commission of Oyer and Terminer, Sessions, Civil Bill or Recorder's Court, shall direct that the Jurors be summoned for the Trial of all Issues, whether Civil or Criminal, which may come on for Trial at the Superior Courts, Assizes, or Quarter Sessions, or Recorder's Court; and the Jurors shall be thereupon summoned, in manner herein-after mentioned; and

and every Summons requiring the Attendance of any Juryman, Common or Special, shall be duly and properly filled and signed by the Sheriff or Under Sheriff of the several Counties, Counties of Cities, and Counties of Towns, previous to such Summons being delivered to the Bailiff or other Officer of the said Sheriff or Under Sheriff, for Service thereof.

Summons of Jurors to be signed by the Sheriffs.

XVIII. It is and shall be lawful for Her Majesty's Courts of Queen's Bench, Common Pleas, and Exchequer in Ireland respectively, upon Motion made on behalf of the Queen, or upon the Motion of any Prosecutor, Relator, or Traverser, in any Criminal Case, or on any Penal Statute (except only Indictments for Treason or Felony), depending in any of the said Courts, and the said Courts and Judges respectively are hereby authorized and required, in any of the Cases before mentioned, to order and appoint a Special Jury to be struck before the proper Officer of each respective Court, for the Trial of any Issue joined in any of the said Cases, and triable by a Jury, in such Manner as herein directed for the striking of Special Juries, and every Jury so struck shall be the Jury returned for the Trial of such Issue; and the Plaintiff in any Action (except for the Replevin of Goods, and the Plaintiff or Defendant who shall serve Notice of Trial in an Action for Replevin of Goods,) shall be entitled to have the Cause tried by a Special Jury, upon giving Notice in Writing to the Defendant, at such Time as would be necessary for a Notice of Trial, of his Intention that the Cause shall be so tried; and the Plaintiff or Defendant who shall not be the Party who has served Notice of Trial in an Action for the Replevin of Goods, and the Defendants in all other Cases, shall be so entitled, on giving the like Notice, within *Six* Days before the First Day of the After-sittings or Assizes respectively; provided that the Court or Judge may at any Time order that a Cause shall be tried by a Special Jury, upon such Terms as they or he shall think fit.

Superior Courts to have the Power of ordering Special Juries to be struck. 3 & 4 W. 4. c. 91. s. 23.

See 16 & 17 Vict. c. 113. s. 113.

XIX. The Person or Party who shall apply for a Special Jury shall pay the Fees for striking such Jury, and all the Expenses occasioned by the Trial of the Cause by the same, and shall not have any further or other Allowance for the same upon Taxation of Costs than such Person or Party would be entitled unto in case the Cause had been tried by a Common Jury, unless the Judge before whom the Cause is tried shall immediately after the Trial certify under his Hand upon the Back of the Record that the same was a Cause proper to be tried by a Special Jury.

Costs of Special Juries. See 3 & 4. W. 4. c. 91. s. 27.

XX. When the Defendant in any Case, not being for Replevin of Goods, or Plaintiff or Defendant in any Action for the Replevin of Goods,

See 16 & 17 Vict. c. 113. s. 114. Remedy where Notice

of Special Jury is given for Delay.

Goods, not being the Party who shall have served Notice of Trial, gives Notice of his Intention to try the Cause by a Special Jury, the Court or a Judge, if satisfied that such Notice is for the Purpose of Delay, may order that the Cause be tried by a Common Jury, or make such other Order as to the Trial of the Cause as such Court or Judge shall think fit.

Notice to Sheriff of Trial by Special Jury. See 16 & 17 Vict. c. 113. s 115.

XXI. Where Notice has been given to try by Special Jury, either Party may, *Six* Days before the First Day of the Sittings in Dublin or Commission Day of the Assizes, or Court of Oyer and Terminer and Gaol Delivery, give Notice to the Sheriff that the Cause, whether Civil or Criminal, is to be tried by a Special Jury; and in case no such Notice be given, or the Notice has not been given in sufficient Time, no Special Jury need be summoned or attend, and the Cause may be tried by a Common Jury, unless otherwise ordered by the Court or a Judge.

View Jurors. See 3 & 4 W. 4. c. 91. ss. 16 and 17. 16 & 17 Vict. c. 113. s. 116.

XXII. A Writ or Clause of View shall not be necessary or used; but whether the View is to be had by a Common or Special Jury, it shall be sufficient to obtain a Rule of the Court or a Judge's Order directing a View to be had, and directing the Sheriff to have *Six* or more of the Jurors named in the Panel chosen by Consent, or, if the Parties cannot agree, nominated by the proper Officer of the Court, at the Place in question, some convenient Time before the Trial; and the Viewers shall have the Place shown to them by Two Persons to be named in the Order, and to be appointed by the Court or Judge; and the Sheriff, on Request, shall deliver to either Party the Names of the Viewers, and shall also return their Names to the Registrar, for the Purpose of their being called as Jurymen upon the Trial.

Sheriff not to return any Names not in the "Jurors Book," &c.

XXIII. The Sheriff shall not in any Answer to any Precept for the Return of Jurors return the Names of any Persons not contained in the "Jurors Book" or "Special Jurors Book" for the Year then current; and where a Precept for returning a Jury for a Trial by any Issue shall be directed to any Coroner, Elizor, or other Minister, he shall have free Access to the "Jurors Books" and "Special Jurors Book" for the current Year, and shall not return the Names of any Persons not contained in the said "Jurors Books:" Provided always, that if there be no "Jurors Book" or "Special Jurors Book" in existence for the current Year, it shall be lawful to return Jurors from the "Jurors Book" or "Special Jurors Book" for the Year last preceding for which there shall have been a "Jurors Book" duly made; and if it shall happen that any Person not in the "Jurors Book" shall be returned, and any Trial shall proceed, and a Verdict be

be found, without any Objection to any such Person as a Juror, such Trial shall not be deemed a Mis-Trial, nor shall the Verdict thereon be impeached or questioned on account of the Return of such Juror.

Jurors Summons. See 3 & 4 W. 4. c. 91. s. 18.

XXIV. The Summons of every Man to serve on Juries, Common or Special, in any of the Courts aforesaid, shall be made by the proper Officer Five Days at the least before the Day on which the Juror is to attend, by showing to the Man to be summoned, or, in case he shall be absent from the usual Place of his Abode, by leaving with some Person there inhabiting, a Copy under the Hand of the Sheriff, Sub-Sheriff, or other proper Officer of such Summons; and if any Man, having been duly summoned to attend on any kind of Jury in any of the Courts in this Act mentioned, shall not attend in pursuance of such Summons, or being thrice called shall not answer to his Name, or if any such Man, or any Talesman, after having been called, shall be present but not appear, or after his Appearance shall wilfully withdraw himself from the Presence of the Court, the Court shall set such Fine not exceeding the Sum of *Fifty Pounds* upon every such Man or Talesman so making Default (unless some reasonable Excuse shall be proved by Oath or Affidavit) as to the Court shall seem meet: Provided always, that where any Viewer, having been duly summoned to attend on any Jury, shall make default as aforesaid, the Court is hereby authorized and required to set upon such Viewer (unless some reasonable Excuse shall be proved as aforesaid) a Fine to the Amount of *Ten Founds* at the least, and as much more as the Court under the Circumstances of the particular Case shall think proper.

3 & 4 W. 4. c. 91. s. 32.

Names of Jurors to be balloted for. See 3 & 4 W. 4. c. 91. s. 19.

XXV. The Name of each Man who shall be summoned and impannelled to try any Issues, Civil or Criminal, in any of the Inferior Courts, Courts of Assize or Nisi Prius, or Consolidated Nisi Prius Court, Court of Commission of Oyer and Terminer, Sessions, Civil Bill or Recorder's Court, with the Place of his Abode and Addition, shall be written on a distinct Piece of Parchment or Card, all as nearly as may be of an equal Size, and shall be delivered unto the Clerk or Registrar of the Judge who is to try the Cause by the Sheriff or Under Sheriff of the County, City, or Town, or other Officer returning the Process, and shall, by Direction and Care of such Clerk or Registrar, be put together in a Box to be provided for that Purpose; and when any Issue, Civil or Criminal, shall be brought on to be tried, such Clerk or Registrar shall in open Court draw out *Twelve* of the said Parchments or Cards, one after another, after having shaken them together, or in Civil Cases, where any View shall have been directed and had as aforesaid, so many

as, together with the Viewers who shall appear and shall be sworn, shall be sufficient to make up the Number of *Twelve*, and if any of the Men whose Names shall be so drawn shall not appear, or shall be challenged and set aside, then such further Number, until *Twelve* Men, or such other Number as, together with such Viewers so appearing and sworn as aforesaid, shall make up the Number of *Twelve*, be drawn, who shall appear, and who, after all just Causes of Challenge allowed, shall remain as fair and indifferent; and the said *Twelve* Men, their Names being marked in the Panel, and they being sworn, shall be the Jury to try the Issue; and the Names of the Men so drawn and sworn shall be kept apart by themselves until such Jury shall have given in their Verdict, and the same shall be recorded, or until such Jury shall, by Consent of the Parties, or by Leave of the Court, be discharged, and then the same Names shall be returned to the Box, there to be kept with the other Names remaining at that Time undrawn, and so toties quoties as long as any Issue remains to be tried: Provided always, that if any Issue be brought on to be tried in any of the said Courts before the Jury in any other Issue shall have brought in their Verdict or been discharged, it shall be lawful for the Court to order *Twelve* of the Residue of the said Parchments or Cards not containing the Names of any of the Jurors who shall not have so brought in their Verdict or been discharged to be drawn in such Manner as aforesaid for the Trial of the Issue which shall be so brought on to be tried; and in all Cases of Indictment for any Treason or Felony the Clerk or Registrar shall draw out of the Box *Fifty-two* of such Parchments or Cards, or if any of the Men whose Names shall be so drawn shall not appear, or shall be challenged for a Cause, then such further Number until *Fifty-two* be drawn who shall appear, and who, after all just Causes of Challenge allowed, shall remain as fair and indifferent, and thereupon the Names of such Jurors shall be called over a Second Time in the Order in which they were drawn from such Box; and the Person so indicted for such Treason or Felony shall be admitted to challenge peremptorily *Twenty* of such Jurors, and no more, and those who prosecute for the Crown shall be admitted to challenge peremptorily *Twenty* of such Jurors, and no more; and every Person not so challenged shall be sworn on such Jury until *Twelve* have been sworn, who shall be the Jury to try such Cause; and in all such Cases of Treason or Felony the Right heretofore claimed and exercised by those that prosecute for the Crown, of ordering Jurors to stand by until the Panel shall be gone through, shall not henceforth be admitted: Provided, that in any Case of Treason or Felony, where more than One Person charged with the same Offence shall be put upon Trial together, and shall not consent to join in their Challenges, then the Clerk or Registrar shall in every such Case draw out of the Box a sufficient Number of such

such Parchments or Cards to permit each of such Parties so indicted to exercise his Right of peremptory Challenge to the Number of Twenty, and those who prosecute for the Crown to a like Number, as and for each of such Persons: Provided also, that, when both Parties shall consent thereto, it shall be lawful for the Court to try any Issue, Civil or Criminal, with the same Jury that shall have previously tried or been drawn to try any other Issue, without their Names being returned to the Box and redrawn, or to order the Name or Names of any Man or Men on such Jury, when both Parties may consent to withdraw, or who may justly be challenged or excused by the Court, to be set aside, and another Name or other Names to be drawn from the Box, and to try the Issue with the Residue of such original Jury, and with such Man or Men whose Name or Names shall be so drawn, and who shall appear and be approved as indifferent, and so toties quoties as long as any Issue remains to be tried.

Want of Qualification, Ground of Challenge. See 3 & 4 W. 4. c. 91. ss. 20, 21.

XXVI. If any Man shall be returned as a Juror for the Trial of any Issue, Criminal or Civil, in any of the Courts herein-before mentioned, who shall not be qualified according to this Act, the Want of such Qualification shall be a good Cause of Challenge, and he shall be discharged upon such Challenge, if the Court shall be satisfied of the Facts: Provided always, that no Challenge shall be taken to any Panel of Jurors for Want of a Knight being returned on such Panel, nor any Array quashed by reason of any such Challenge, any Law, Custom, or Usage to the contrary notwithstanding.

No Challenge for Want of a Knight.

Courts may direct Tales. See 3 & 4 W. 4. c. 91. s. 28.

XXVII. Where a full Jury shall not appear before any Court of Assize, Court of Commission of Oyer and Terminer, or Court of Nisi Prius, Consolidated Nisi Prius, Quarter Sessions, or Recorder's Court, in any Criminal Prosecution properly triable in such Court, or in any Suit or Action, or where, after Appearance of a full Jury, by Challenge of any of the Parties the Issue is likely to remain untaken for Default of Jurors, every such Court, upon Request made for the Queen by any One thereto authorized or assigned by the Court in Cases of such Criminal Prosecutions as aforesaid, or on Request made by the Parties, Plaintiff or Defendant, or their respective Attornies, in any Action or Suit, shall command the Sheriff or other Officer to whom the making of the Return shall belong to name and appoint, as often as Need shall require, *Twelve* other able Men of the County, City, County of a City, or County of a Town then present, and the Sheriff or other Officer aforesaid shall at such Command of the Court return *Twelve* such Men duly qualified, who shall be present, or can be found to serve on such Jury, and shall add and annex their Names to the former Panel: Provided,

that where a Special Jury shall have been struck for the Trial of any Issue the Talesman shall be such as shall be impanelled upon the "Special Jury List," if a sufficient Number of such Men can be found, and if not, then such as shall be impanelled upon the Common Jury List; and the Names of the Persons so to be named, with their Additions and Places of Abode, shall be written on several distinct Pieces of Parchment or Cards, being all as near as may be of equal Size, and shall be delivered to the Clerk or Registrar of the Judge before whom such Issue is to be tried, by the Sheriff or other Officer to whom the returning of such Jury shall belong, and shall by the Direction and Care of such Clerk or Registrar be rolled up as near as may be in the same Manner, and put together in a Box or Drawer, and shaken together, and the said Clerk or Registrar, or other indifferent Person, by Direction of the Court, in open Court, shall draw out such Pieces of Parchment or Card one after another until a Number shall appear which shall be sufficient, with those of the original Panel who appear, to make up the Number of *Twelve* who shall be the Jury to try such Issue; and the Queen, by any One so authorized or assigned as aforesaid, and all and every the Parties aforesaid, shall and may, in each of the Cases aforesaid respectively, have their respective Challenges to the Jurors so added and annexed; and the Court shall proceed to the Trial of every such Issue with those Jurors who were before impanelled, together with the Talesman so newly added and annexed, as if all the said Jurors had been returned upon the Precept awarded to try the Issues.

Sheriff, &c. not to take any Money &c. to excuse any Person from serving. See 3 & 4 W. 4. c. 91. s. 34.

XXVIII. No Sheriff, Under Sheriff, Coroner, Elisor, Bailiff, or other Officer or Person whomsoever shall directly or indirectly take or receive any Money or other Reward, or Promise of Money or Reward, or any Consideration whatsoever, or the Promise of any Consideration, to excuse any Man from serving or from being summoned to serve on Juries, or under any such Colour or Pretence; and no Bailiff or other Officer appointed by any Sheriff, Under Sheriff, Coroner, or Elisor to summon Juries shall summons any Man to serve thereon other than those whose Names are specified in a Warrant or Mandate, signed by such Sheriff, Under Sheriff, or Elisor, and directed to such Bailiff or other Officer; and if any Sheriff, Under Sheriff, Coroner, Elisor, Baliff, or other Officer shall wilfully transgress in any of the Cases aforesaid, or shall neglect to summon any Juror, or shall summon any Juror any Number of Days less than Five Days before the Day on which he is to attend, the Court of Assize, Nisi Prius, Consolidated Nisi Prius, Oyer and Terminer, Gaol Delivery, or Court of Sessions of the Peace, or Recorder's Court (within whose Jurisdiction such Offence shall have been committed) may and is hereby

hereby required, on Examination and Proof of such Offence in a summary Way, to set such a Fine upon any Person so offending as the Court shall think meet, according to the Nature of the Offence.

Power to the Superior Courts to change the Venue where same is laid in any County of a City, &c. See 3 & 4 W. 4. c. 91. s. 21. and 6 G. 4. c. 51. s. 4.

XXIX. In every Action, whether the same be transitory or local, which shall be prosecuted or depending in any of Her Majesty's Courts of Record in Ireland, and in every Indictment removed into Her Majesty's Court of Queen's Bench in Ireland by Writ of Certiorari, and every Indictment found by any Term Grand Jury of the County of Dublin or of the County of the City of Dublin, in Her Majesty's Court of Queen's Bench in Ireland, and in every Information filed by Her Majesty's Attorney General or Solicitor General in Ireland, or by Leave of the Court of Queen's Bench in Ireland, and in all Cases where any Person or Persons shall plead to or traverse any of the Facts contained in the Return to any Writ of Mandamus in Ireland, if the Venue in such Action, Indictment, or Information be laid in any County of a City or County of a Town in Ireland, or if such Writ of Mandamus be directed to any Person or Persons or Body Politic or Corporate in Ireland, it shall and may be lawful for the Court in which such Action, Indictment, Information, or other Proceedings shall be depending, at the Prayer and Instance of any Prosecutor or Plaintiff, or of any Defendant, to direct the Issue or Issues joined in such Action, Indictment, Information, or Proceeding to be tried by a Jury of the County next adjoining to such County of a City or County of a Town, and to issue a proper Precept accordingly, if the said Court shall think fit and proper so to do.

Penalties for Neglect of Duty by Clerk of the Peace or Town Clerk, or Sheriff. See 3 & 4 W. 4. c. 91. s. 36.

XXX. If any Clerk of the Peace or Town Clerk shall refuse or wilfully neglect to cause such Lists of Jurors to be made out in the Manner herein-before directed, or shall refuse or wilfully neglect to provide or prepare the "Jurors Book" or "Special Jurors Book" within the Time or in the Manner and Form herein-before prescribed, or to deliver the same to the Sheriff or Under Sheriff within the Time herein-before prescribed, or if any Sheriff or Under Sheriff or other Officer acting under this Act shall make or cause to be made any Alteration whatsoever in the List of Jurors contained in the said "Jurors Books," except in the Cases herein-before provided for, or shall wilfully write or cause to be written in the said List or Books the Name of any Person not qualified, or shall wilfully omit thereout the Name of every Person duly qualified as a Juror or Special Juror, or shall neglect or refuse to write or cause to be written the several Numbers contained in such List upon distinct Pieces of Parchment or Card in the Manner and within the Time herein-before prescribed, or shall subtract or destroy, or by any Neglect or Default lose, any of the said Pieces of Parchment or

Card, or shall wilfully neglect or refuse, upon Discovery of such Loss, to supply the same, or if any Sheriff or Under Sheriff shall refuse or wilfully neglect, within *Ten* Days after the next succeeding Sheriff shall have entered upon Office, to deliver over to him as well all the said "Jurors Books" which shall be made or prepared in the Year of his Shrievalty as also such other like Books and Lists as were prepared in the Shrievalty of any of his Predecessors within *Four* Years then next preceding, and which were delivered over to him by any of his Predecessors, every such Clerk of the Peace, Sheriff or Under Sheriff, or other Officer, offending in any of the said Cases, shall for every such Offence forfeit the Sum of *One hundred Pounds*, One *Moiety* whereof shall be to the Use of Her Majesty, Her Heirs or Successors, and the other *Moiety*, with full Costs, to such Person as shall sue for the same in any of Her Majesty's Courts of Record at Dublin, by Personal Action.

Penalties to Jurors summoned on Inquests for Non-attendance, or other Default. See 3 & 4 W. 4. c. 91. s. 41.

XXXI. If any Man, having been duly summoned and returned to serve as a Juror upon any Inquest or Inquiry before any Sheriff, Justice of the Peace or Justices of the Peace, or Coroner, or before any of the Commissioners appointed under the Great Seal or the Seal of the Court of Exchequer, shall not, after being openly called Three Times, appear, and Service of such Summons be duly proved, every such Sheriff, or in his Absence the Under Sheriff, and such Justice of the Peace and such Coroner and Commissioners respectively, are hereby authorized and required, unless some reasonable Excuse shall be proved on Oath or Affidavit, to impose such Fine upon every Man so making default as they shall respectively think fit, not exceeding *Five Pounds;* and every such Sheriff, Under Sheriff, Justices of the Peace, Coroner, and Commissioners respectively shall make out and sign a Certificate containing the Christian and Surname, the Residence, and Trade or Calling of every Man so making default, together with the Amount of the Fine imposed, and the Cause of such Fine, and shall transmit such Certificate to the Clerk of the Peace for the Place in which every such Defaulter shall reside, on or before the First Day of the Quarter Session next ensuing; and every such Clerk of the Peace is hereby required to copy the Fines so certified on the Roll on which all Fines and Forfeitures imposed at such Quarter Sessions shall be copied, and the same shall be estreated, levied, and applied in like Manner, and subject to the like Powers, Provisions, and Penalties in all respects, as if they had been Part of the Fines imposed at such Quarter Sessions.

Fines imposed by this Act. See 3 & 4 W. 4. c 91. s. 42.

XXXII. All Fines to be imposed under this Act by any of the Queen's Courts of Record at Dublin, or by any Court of Assize, Nisi Prius, Oyer and Terminer, or Gaol Delivery, or any Court of Quarter Sessions

Sessions of the Peace, or Recorder's Court, in Ireland, shall be levied and applied in the same Manner as any other Fines imposed by the same Court, and that all other Penalties hereby created (for which no other Remedy is given) shall, on Conviction of the Offender before any One Justice of the Peace within the Jurisdiction, be levied, unless such Penalty be forthwith paid, by Distress and Sale of the Offender's Goods and Chattels, by Warrant under the Hand and Seal of such Justice, who is hereby authorized to hear and examine Witnesses on Oath or Affirmation on any Complaint, and to determine the same, and to mitigate the Penalty, if he see fit, to the Extent of *One Moiety* thereof; and all Penalties the Application whereof is not hereinbefore particularly directed shall be paid to the Complainant; and for Want of sufficient Distress the Offender shall be committed, by Warrant under the Hand and Seal of such Justice, to the Common Gaol or House of Correction, for such Term not exceeding *Six* Calendar Months as such Justice shall think proper, unless such Penalty shall be sooner paid.

Conviction for Offences under this Act. See 3 & 4 W. 4. c. 91. s. 43.

XXXIII. And for the more easy and speedy Conviction of Offenders against this Act, be it enacted, That the Justice before whom any Person shall be convicted of any Offence against this Act shall and may cause the Conviction to be drawn up in the following Form of Words, or in any other Form of Words to the same Effect, as the Case shall happen; viz.

'BE it remembered, That on in the Year of our 'Lord *A. B.* is convicted before me *C. D.*, '(One of Her Majesty's Justices of the Peace for the 'of) for that he the said *A. B.* did [specifying 'the Offence, and the Time and Place where the same was committed, 'as the Case shall be]; and the said *A. B.* is for his said Offence 'adjudged by me the said Justice to forfeit and pay the Sum 'of Pounds.

'Given under my Hand and Seal, the Day and Year first above 'mentioned.'

Conviction not to be quashed for Want of Form. 3 & 4 W. 4. c. 91. s. 44.

XXXIV. No such Conviction shall be quashed for Want of Form, or be removed or removable by Certiorari, or by any other Writ or Proceedings whatsoever, into any of Her Majesty's Courts of Record at Dublin; and that where any Distress shall be made for any Penalty to be levied by virtue of this Act the Distress itself shall not be deemed to be unlawful, and the Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser ab initio on account of any Irregularity which shall be afterwards done by him, but the

Person aggrieved by such Irregularity shall and may recover full Satisfaction for the special Damage (if any) in an Action upon the Case, first giving Notice in Writing of the Cause of Action to the opposite Party *One Calendar Month* before the Commencement of such Action; but no Plaintiff shall recover in any Action for such Irregularity if Tender of sufficient Amends shall have been made before such Action brought, or if a sufficient Sum of Money to satisfy the Damages and Costs up to that Time shall have been paid into Court after such Action brought, by or on behalf of the Party distraining.

Sheriff indemnified in returning any Person whose Name is in the Jurors Book or Special Jurors Book. 3 & 4 W. 4. c. 91. s. 33.

XXXV. Every Sheriff and other Officer to whom the Return of Juries shall belong shall be and is hereby indemnified for summoning, impanelling, and returning any Man named in the said "Jurors Book" or "Special Jurors Book," although he may not be qualified or liable to serve on Juries; and if any Sheriff or other such Officer shall wilfully impanel and return any Man to serve on any Jury before any of the Courts before mentioned (except on the Grand Jury at any Assizes, or on the Grand Jury of the County of Dublin or County of the City of Dublin in every Term), such Man's Name not being inserted in the said "Jurors Book" or "Special Jurors Book" for the current Year, or if such "Jurors Book" and "Special Jurors Book," or either of them, hath not been delivered, then in the "Jurors Book" or "Special Jurors Book" (as the Case may be) last delivered, or if any Judge's, Registrar or Clerk, Clerk of the Peace, Town Clerk, or other Officer of any of the Courts in this Act mentioned, shall wilfully record the Appearance of any Man so summoned and returned who did not really appear, in every such Case the Court shall, upon Examination in a summary Way, set such Fine upon such Sheriff or Officer, Judge's Registrar, or Clerk of the Peace, or Town Clerk, or other Officer attending, as to the Court shall seem meet.

Writ of Attaint abolished. 3 & 4 W. 4. c. 91. s. 47.

XXXVI. From and after the *passing of this Act*, it shall not be lawful for the Queen, or any one on Her Behalf, or for any Party or Parties in any Case whatsoever, to commence or prosecute any Writ of Attaint against any Juror or Jurors for the Verdict by them given, or against the Party or Parties who shall have Judgment upon such Verdict; and no Inquest shall be taken to inquire of the Concealments of other Inquests, but all such Attaints and Inquests shall thenceforth cease, become void, and be utterly abolished, any Law, Statute, or Usage to the contrary notwithstanding.

Embracery. See 3 & 4 W. 4. c. 91. s. 48.

XXXVII. Provided always, That, notwithstanding anything herein contained, every Person who shall be guilty of the Offence of Embracery, and every Juror who shall wilfully or corruptly consent thereto, shall and may be respectively proceeded against by Indictment or

or Information, and be punished by Fine and Imprisonment, in like Manner as every such Person and Jurors might have been before the passing of this Act.

This Act not to affect Act 19 G. 2. or 33 Hen. 8. Sess. 1. English, or 7 W. 3. Irish. See 3 & W. 4. c. 91. ss. 50 and 52.

XXXVIII. Provided always, That nothing herein contained shall be construed to affect or alter any Part of an Act passed in the Parliament of Ireland in the Nineteenth Year of the Reign of King George the Second, intituled "An Act for accepting the Solemn Affirmation or "Declaration of the People called Quakers, instead of an Oath in the "usual Form;" and nothing in this Act contained shall in anywise be construed or deemed to repeal, alter, or affect an Act made in the First Session of the Thirty-third Year of the Reign of His late Majesty King Henry the Eighth, intituled "An Act that Consanguinity or "Affinity, not being within the Fifth Degree, shall be no principal "Challenge."

Certain Acts and Parts of Acts repealed.

XXXIX. From and after the Periods hereby appointed for the Commencement of this Act, the several Acts and Parts of Acts set forth in the First Schedule to this Act annexed, to the Extent to which such Acts or Parts of Acts are by such Schedule expressed to be repealed, and every other Act or Acts and such Parts of every other Act or Acts as shall be inconsistent with this Act, shall be and they are hereby repealed, except as to anything heretofore done, and except so far as any of the said Acts or Parts of Acts, whether mentioned or included in the said Schedule or not, repeal any former Act or Acts or Parts of an Act or Acts, and except as to the Recovery and Application of any Penalty for any Offence which shall have been committed before the Periods appointed for the Commencement of this Act.

This Act not to abridge Powers of Courts. See 3 & 4 W. 4. c. 91. s. 15.

XL. Provided also, That nothing herein contained shall extend or be construed to extend to alter, abridge, or affect any Power or Authority which any Court or Judge in this Act mentioned now hath, in issuing any Precept, or making any Award or Order, orally or otherwise, for the Return of a Jury, Juries, or Jurors, or for amending or enlarging the Panel of Jurors returned for the Trial of any Issue, except in those Cases only where any such Power or Authority, Practice or Form, is repealed or altered by this Act, or is or shall be inconsistent with any of the Provisions thereof, nor to abridge or affect any Privilege of Parliament; provided that the Jurors to try any Issue be qualified according to this Act.

Commencement of this Act.

XLI. The Parts of this Act relating to the Preparation of Lists of Jurors, and the Formation of the "Jurors Book" and "Special Jurors Book," and the Delivery thereof to the Sheriff in the Manner

herein-before mentioned, shall commence and take effect as soon after the *passing of this Act* as the proper Periods for doing those Things shall occur; and the rest of this Act shall commence and take effect in the County of Dublin and the County of the City of Dublin on the

, and in every other County, City, County of a City, 5 or County of a Town in Ireland, on the

SCHE-

SCHEDULES to which the foregoing Act refers.

FIRST SCHEDULE.

ACTS and PARTS of ACTS to be repealed, so far as in the foregoing Acts is declared.

Date of Act.	Title of Act.	Extent of Repeal.
No. 1. An Act passed in the Session of Parliament holden in the Third and Fourth Years of the Reign of William the Fourth, Chapter Ninety-one.	No. 1. "An Act for consolidating and amending the Laws relative to Jurors and Juries in Ireland."	No. 1. The whole of this Act, except the 50th Section.
No. 2. An Act passed in the Session of Parliament holden in the Fourth and Fifth Years of the Reign of William the Fourth, Chapter Eight.	No. 2. "An Act to amend an Act passed in the last Session for consolidating and amending the Laws relative to Jurors and Juries in Ireland."	No. 2. The whole of this Act.
No. 3. An Act passed in the Session of Parliament holden in the Second and Third Years of the Reign of Queen Victoria, Chapter Forty-eight.	No. 3. "An Act to amend Two Acts of the Third and Fourth and Fourth and Fifth Years of His late Majesty King William the Fourth, for consolidating and amending the Laws relative to Jurors and Juries in Ireland."	No. 3. The whole of this Act.
No. 4. An Act passed in the Session of Parliament holden in the Third and Fourth Years of the Reign of Queen Victoria, Chapter One hundred and eight.	No. 4. "An Act for the Regulation of Municipal Corporations in Ireland."	No. 4. Section 189.
No. 5. An Act passed in the Session of Parliament holden in the Eighth and Ninth Years of the Reign of Queen Victoria, Chapter Sixty-seven.	No. 5. "An Act for making further Regulations for more effectually securing the Correctness of the Jurors Books in Ireland."	No. 5. The whole of this Act.
No. 6. An Act passed in the Session of Parliament holden in the Twelfth and Thirteenth Years of the Reign of Queen Victoria, Chapter Ninety-one.	No. 6. "An Act to provide for the Collection of Rates in the City of Dublin."	No. 6. Section 87. of this Act, by which the Collector General of the City of Dublin is required to make out the List of Persons liable to serve on Juries.
No. 7. An Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Queen Victoria, Chapter Thirty-seven.	No. 7. "An Act to amend the Laws relating to the Office of Coroner and the Expense of Inquests in Ireland."	No. 7. Section 23. of this Act, which regulates the Qualification of Jurors upon Coroners Inquests.

Date of Act.	Title of Act.	Extent of Repeal.
No. 8. An Act passed in the Session of Parliament holden in the Sixteenth and Seventeenth Years of the Reign of Queen Victoria, Chapter One hundred and thirteen.	No. 8. "An Act to amend the Procedure in the Superior Courts of Common Law in Ireland."	No. 8. Section 109, Section 110, Section 111, Section 112, Section 113, Section 114, Section 115, Section 116, and Section 117, which relate to Juries and Jury Process.

SCHEDULE (A.)

"The Clerk of the Union's List of Persons qualified to serve as "Jurors" of the County of *or* County of the City of *or* County of the Town of [*as the Case may be*] for the Years

Numbers in this List.	Christian Name and Surname in alphabetical Order of Surnames.	Place of Abode or Residence.	Title, Quality, Calling, or Business.	Amount rated yearly Value.	Name of the Townland, Denomination, or Place, Street, Lane, or Place, in which the Property in respect of which the Party rated is situate.

"The General List of Jurors" of the County of *or* County of the City of *or* County of the Town of [*as the Case may be*] for the Year 18

Number in this Book.	Christian Name and Surname	Place of Abode.	Title, Quality, Calling, or Business.	Annual Value of Freehold, or Leasehold, or Amount rated yearly Value.	Rated Occupier, or Freeholder, or Leaseholder.	Name of the Townland, Denomination, or Place, Street, Lane, or Place, in which the Property in respect of which the Jurors have been rated on and qualified is situate.

SCHEDULE (B.)

"The GENERAL LIST of SPECIAL JURORS" of the County of . . . *or* County of the City of . . . *or* County of the Town of . . . [*as the Case may be*] for the Year . . .

Number in this List.	Christian Name and Surname in alphabetical Order of Surnames.	Place of Abode or Residence.	Title, Quality, Calling, or Business.	Annual Value of Freehold or Amount rated yearly Value.	Nature of Qualification, whether Lands, or House, or Houses, &c., Rated Occupier or Freeholder.	Name of the Townland, Denomination, or Place, Street, Lane, or Place, in which the Property in respect of which the Juror has been rated is situate.

Jurors and Juries.

(Ireland.)

A

BILL

To consolidate and simplify the Laws relating to Jurors and Juries in Ireland.

(Prepared and brought in by Sir John Young, and Mr. Solicitor-General for Ireland.)

Ordered, by The House of Commons, *to be Printed,* 14 *December* 1854.

[Bill 2.]

Under 4 *oz.*

Jurors and Juries (Ireland) Bill. (No. 2.)

ARRANGEMENT OF CLAUSES.

	Corresponding Clauses of former Acts in Ireland, and similar Acts in England.
Preamble.	
1. Commencement of this Act; Repeal of former Acts and Part of Acts, by reference to First Schedule of this Act.	
2. Age and Qualification of Jurors	3 & 4 W. 4. c. 91. s. 1. I. see also 6 G. 4. c. 50. s. 1. E.
3. Persons exempt from serving on Juries	3 & 4 W. 4. c. 91. s. 2. I. see also 6 G. 4. c. 50. s. 2. E.
4. Persons disqualified, Aliens, (except on Juries de medietate linguæ) Convicts, &c.	3 & 4 W. 4. c. 91. s. 3. I. see 6 G. 4. c. 50. s. 3. E.
5. General List of Jurors and Jurors Book, from which all Jurors in all Cases are to be selected	See 3 & 4 W. 4. c. 91. ss. 4 to 9 inclusive, 8 & 9 Vict. c. 67. s. 3. I., see also 6 G. 4. c. 50. ss. 4 to 12 inclusive. E.
6. General Special Jury List and Special Jurors Book	3 & 4 W. 4. c. 91. s. 24. I.
7. Court of Queen's Bench in Ireland or any Judge thereof empowered to correct said "Jurors Lists" and "Jurors Books"	8 & 9 Vict. c. 67. s. 4. I.
8. Grand Juries empowered to present the Expenses of preparing said "Jurors Lists" and "Jurors Books"	8 & 9 Vict. c. 67. s. 5.
9. Judges of Superior Courts of Assize, and Commission Chairman of Sessions and Recorders, to issue Precept to Sheriffs to summon Juries	16 & 17 Vict. c. 113. ss. 109, 110., see also 6 G. 4. c. 50. s. 22.
10. Sheriffs of County of Dublin and City of Dublin to summon Jurors pursuant to Precept of Judges	16 & 17 Vict. c. 113. s. 111.
11. Precept to summon Special Jurors	16 & 17 Vict. c. 113. s. 112.
12. No other Jury Process; Precept sufficient Summons of Jurors	16 & 17 Vict. c. 113. s. 109.
13. Superior Courts to have the Power of ordering Special Juries to be struck	3 & 4 W. 4. c. 91. s. 23., 16 & 17 Vict. c. 113. s. 113.
14. Party applying for Special Jury to pay the Costs; Costs only of a Common Jury to be allowed unless the Judge certify	3 & 4 W. 4, c. 91. s. 27.
15. Remedy where Notice of Special Jury is given for Delay	16 & 17 Vict. c. 113. s. 14.
16. Parties in any Action may apply for a Special Jury; either Party to give Notice to Sheriff	16 & 17 Vict. c. 113. ss. 114, 115.
17. View Jurors	3 & 4 W. 4. c. 91. ss. 16 & 17., 16 & 17 Vict. c. 113. s. 116.
18. Justice of the Peace not to be summoned to Sessions within his Jurisdiction	3 & 4 W. 4. c. 91. s. 38., see also 6 G. 4. c. 50. s. 48

	Corresponding Clauses of former Acts in Ireland, and similar Acts in England.
19. No Jurors to be returned except from "Jurors Book" or "Special Jurors Book"	3 & 4 W. 4. c. 91. s. 11.
20. Summons of Jurors by the proper Officer, &c.	3 & 4 W. 4. c. 91. s. 18.
21. Ballot for Jury in Civil Cases	3 & 4 W. 4. c. 91. s. 19.
22. Want of Qualification a Ground of Challenge	3 & 4 W. 4. c. 91. s. 20.
23. Tales, &c.	3 & 4 W. 4. c. 9. s. 28.
24. Judges may direct Two Sets of Jurors to be summoned	See 6 G. 4. c. 50. s. 22.
25. Sheriffs to enter into "Jurors Book" the Services of Jurors, and give Certificate of such Services	See 6 G. 4. c. 50. s. 40.
26. Jurors not to be again summoned within certain Periods	See 6 G. 4. c. 50. s. 42.
27. Sheriff or other Officer not to take any Consideration to exempt Persons from being summoned as Jurors	See 3 & 4 W. 4. c. 91. s. 34., see also 6 G. 4. c. 50. s. 43.
28. Penalty on Jurors summoned for Non-attendance	3 & 4 W. 4. c. 91. s. 32.
29. In Actions, Indictments, &c., where Venue is laid in a County of a City or County of a Town, the Court may order the Issue to be tried in the County next adjoining	3 & 4 W. 4. c. 91. s. 21., see also 6 G. 4. c. 51. s. 2.
30. Penalty on Clerk of the Peace, or Town Clerk, Sheriff, or Under Sheriff, for Breach of Duty in respect of "List of Jurors" or "Jurors Books"	3 & 4 W. 4. c. 91. s. 35.
31. Jury de medietate linguæ	3 & 4 W. 4. c. 91. s. 37., 6 G. 4. c. 50. s. 47.
32. Coroners' Juries	9 & 10 Vict. c. 37. ss. 22., 23., 3 & 4 W. 4. c. 91., 6 G. 4. c. 50. s. 52.
33. Penalties on Jurors summoned for absenting without lawful Excuse	3 & 4 W. 4. c. 91. s. 41.
34. Fines to be levied and applied as herein directed	3 & 4 W. 4. c. 91. s. 42.
35. Form of Conviction for Offences under this Act	3 & 4 W. 4. c. 91. s. 43.
36. Conviction not to be quashed for Want of Form	3 & 4 W. 4. c. 91. s. 44.
37. Sheriff indemnified for returning any Name in "Jurors Books"	3 & 4 W. 4. c. 91. s. 33.
38. Venue in all Actions against any Person for anything done in pursuance of this Act to be laid in the County where the Fact was committed	3 & 4 W. 4. c. 91. s. 46.
39 Writ of Attaint abolished	3 & 4 W. 4. c. 91. s. 47., 6 G. 4. c. 50. s. 60.
40. Embracery punishable	3 & 4 W. 4. c. 91. s. 48.
41. This Act not to affect certain Acts herein mentioned	3 & 4 W. 4. c. 91. s. 22, 50.
42. Act not to affect Powers of Judges except as herein mentioned	See 3 & 4 W. 4. c. 91, s. 15.
43. Commencement of this Act.	
44. Act may be amended in this Parliament.	

(Ireland.) (No. 2.)

A

BILL

TO

Amend the Laws relating to Jurors and Juries in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

Preamble.

WHEREAS the Laws relating to the Qualifications and summoning of Jurors and the Formation of Juries and striking of Special Juries in Ireland require to be amended and consolidated: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Certain Acts and Parts of Acts repealed from the Period appointed for the Commencement of this Act.

I. From and after the Periods hereby appointed for the Commencement of this Act, the several Acts and Parts of Acts set forth in the First Schedule to this Act annexed, to the Extent to which such Acts or Parts of Acts are by such Schedule expressed to be repealed, and every other Act or Acts and such Parts of every other Act or Acts as shall be inconsistent with this Act shall be and they are hereby repealed, except as to anything heretofore done, and except so far as any of the said Acts or Parts of Acts, whether mentioned or included in the said Schedule or not, repeal any former Act or Acts or Parts of an Act or Acts, and except as to the Recovery and Application of any Penalty for any Offence which shall have been committed before the Periods appointed for the Commencement of this Act.

 II. Every

Age and Qualification of Jurors. See 6 G. 4. c. 50. s. 1.

II. Every Man, except as herein-after excepted, between the Ages of *Twenty-one* Years and *Sixty-five* Years, resident in any County, City, or County of a City, County of a Town, or Parliamentary Borough within any County in Ireland, whose Name shall appear in the List of Parliamentary Voters for such County, City, County of a City, County of a Town, or Parliamentary Borough within any County, duly revised and signed and lodged, and in the Possession of the Clerk of the Peace for such County, and of the Clerk of the Peace or Town Clerk of or acting in or for the said City, County of a City, County of a Town, or Parliamentary Borough, according to the Provisions of an Act passed in the Session of Parliament holden in the Thirteenth and Fourteenth Years of the Reign of Her Majesty, Chapter Sixty-nine, as a Person having an Estate of Freehold in Lands, Tenements, or Hereditaments of the annual Value of not less than *Twenty Pounds*, or as a Person rated to the Relief of the Poor within such County, City, County of a City, County of a Town, or Parliamentary Borough within any County, in respect of Lands, Tenements, or Hereditaments situate within such County of the net annual Value of not less than *Thirty Pounds*, and in respect of Lands, Tenements, and Hereditaments within such City, County of a City, County of a Town, or Parliamentary Borough within such County of the net annual Value of not less than *Thirty Pounds*, shall, subject to the Provisions herein-after contained, be qualified and liable to serve on Juries for the Trial of all Issues, Civil and Criminal, joined in any of the Queen's Courts of Record in Dublin, and in all Courts of Assize, Nisi Prius, Oyer and Terminer, and general Gaol Delivery, such Issues being respectively triable in the County, City, County of a City, or County of a Town, in which every Man so qualified shall reside and be rated as aforesaid; and shall also be qualified and liable to serve on Grand Juries in the Courts of General Sessions of the Peace for such County or Riding, City, County of a City, or County of a Town, and on all Petty Juries for the Trial of all Issues, Civil and Criminal, joined in the said Court of General Sessions of the Peace, or Civil Bill Courts of such County, or Riding, City, or County of a City, or County of a Town, and triable in the County, Riding, District, or Division, City, County of a City, or County of a Town in which every Man so qualified shall reside; and shall also be qualified and liable to serve upon every Inquest, and on every Inquiry to be taken or made by or before any Sheriff or Coroner by virtue of any Writ of Inquiry or Statute, or by or before any Commissioner appointed under the Great Seal, or the Seal of the Court of Exchequer; provided the yearly Value on which the Rating or Assessment to qualify to serve on Juries in all Cases be not less than *Thirty Pounds;* provided always, that for the Purpose of this Act, as regards any County, City, County of a City, or County of a Town any such Person as aforesaid shall

shall be deemed to be resident in such County, City, County of a City, or County of a Town who shall have or occupy a Counting House, Office, or Place of Business or Resort in such County, City, County of a City, or County of a Town, rated to the Amount aforesaid, although such Person may not actually reside therein, provided that he reside within *Seven* Statute Miles of the Court House of such County, City, County of a City, or County of a Town, and in the County of the City of Dublin, within a like Distance of the Queen's Courts in Dublin, the said Distance of *Seven* Statute Miles to be computed by the nearest public Roads or Way by Land or Water.

Exemptions from serving on Juries. See 3 & 4 W. 4. c. 91. s. 2. and 6 G. 4. c. 50. s. 2.

III. Provided always, That all Peers, Judges of the Queen's Courts of Record in Dublin, Chairmen of Quarter Sessions, Assistant Barristers, all Clergymen in Holy Orders, all Persons who shall teach or preach in any Religious Congregation, and shall follow no secular Occupation except that of a Schoolmaster, all Serjeants and Barristers at Law, all Judges of Ecclesiastical Courts, all Advocates of the Civil Law actually practising, all Attornies, Solicitors, and Proctors, duly admitted in any Court of Law or Equity, or of Ecclesiastical or Admiralty Jurisdiction, in which Attornies, Solicitors, or Proctors have usually been admitted, actually practising and having duly taken out their annual Certificates, all Officers of any such Courts actually exercising the Duties of their respective Offices, all Coroners, Gaolers, and Keepers of Houses of Correction, all Members and Licentiates of the Royal College of Physicians in Dublin, and Graduates in Medicine actually practising, all Surgeons being Members of One of the Royal Colleges of Surgeons in Dublin, London, or Edinburgh, and actually practising, all Apothecaries certificated by the Court of Examiners of the Apothecaries Company and actually practising, all Officers in Her Majesty's Navy or Army on Full Pay, and all Masters of Vessels, and all Pilots licensed under any Act of Parliament or Charter for the Regulation of Pilots in any Port, all Officers of Customs and Excise, all Sheriff's Officers, High Constables and Parish Clerks, shall be and are hereby absolutely freed and exempted from being returned and from serving upon any Juries or Inquests whatsoever, and shall not be inserted in the Lists or Jurors Books to be prepared by virtue of this Act as herein-after mentioned; provided also, that all Persons exempt from serving upon Juries in any of the Courts aforesaid, by virtue of any Statute, Prescription, Charter, Grant, or Writ, shall continue to have and enjoy such Exemption in as ample a Manner as before the passing of this Act, and shall not be inserted in the Lists herein-after mentioned.

Disqualified Persons. See 6 G. 3. c. 50. s. 3.

IV. No Man, not being a natural born Subject of the Queen, is or shall be qualified to serve on Juries or Inquests, except only in Cases herein-after

See 3 & 4 W. 4. c. 91. s. 3.

herein-after expressly provided for; and no Man who hath been or shall be attainted of any Treason or Felony, or convicted of any Crime that is infamous, unless he shall obtain a Free Pardon, nor any Man who is under Outlawry by virtue of any Criminal Process or under Excommunication, nor any Man who shall have been or shall be convicted of any Whiteboy Offence, comprising waylaying, aggravated Assaults, and Crimes resulting from illegal Combinations, and who have undergone Punishment, nor any Person who shall have lost his Qualification to act as Juror by parting with his Property rated, or who shall become bankrupt and shall not have obtained his Certificate, or who shall become insolvent, is or shall be qualified to serve on Juries or Inquests in any Court or on any Occasion whatsoever.

"General List of Jurors and Jurors Books;" from which Jurors for Trials Civil and Criminal are to be selected. —Vide Report of Committee on Crime and Outrage in Ireland.

V. Each and every Clerk of the Peace, or Town Clerk of or acting in or for, each and every County, City, County of a City or County of a Town, or Parliamentary Borough situate within any County in Ireland, or his Deputy, shall from Time to Time, as soon as the several and respective Lists of Parliamentary Voters for such respective County, City, County of a City, or County of a Town, or for any Parliamentary Borough situate in any County, shall have been duly revised and signed by the Assistant Barrister or the Person acting for him under the Provisions of the Act passed in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, Chapter Sixty-nine, in each and every Year make out a true and correct List, in alphabetical Order, of the Names of all Persons who shall appear on such respective revised Lists of Voters as Persons having Estates of Freehold in Lands, Tenements, or Hereditaments of the annual Value of not less than *Twenty Pounds*, or as being rated to the Relief of the Poor in respect of Lands, Tenements, or Hereditaments within such respective County of the net annual Value of not less than *Thirty Pounds*, and as being rated to the Poor in respect of Lands, Tenements, or Hereditaments in such City, County of a City, County of a Town, or Parliamentary Borough of the net annual Value of not less than *Thirty Pounds*; and which List when so made shall be called "The General List of Jurors" and shall be according to the Form (A) in the Second Schedule to this Act annexed, and shall contain in proper Columns the Christian Name and Surname written at full Length, the true Place of Abode, Amount of Rating, and the Townland or Denomination, Street, Lane, and the Place where the Property is situated or Name of the Property in respect of which such Person has been rated to the Relief of the Poor, and such List shall at the Foot of each Page thereof, and also at the Foot thereof, be signed by the Clerk of the Peace, Town Clerk, or his Deputy, under his Hand, and which "List" shall be kept among the Records of the County, City, County of a City, or County of a Town respectively, and such Clerk of

County Rating.

City or Town Rating.

of the Peace or Town Clerk, or his Deputy, shall allow such List to be inspected at all reasonable Times, in his Office, without Fee or Reward. The Clerk of the Peace, or the Town Clerk as aforesaid, or his Deputy, shall cause such "General List of Jurors" to be truly and fairly copied in the same Order in which the Names shall be arranged in the said "revised" and "General Lists," in a Book to be by him provided for that Purpose at the Expense of the County, City, County of a City, or County of a Town respectively, and shall forthwith deliver the same Book to the Sheriff of the County, City, County of a City, or County of a Town, or his Under Sheriff, duly certified by such Clerk of the Peace or Town Clerk, which Book shall be called "The Jurors Book" for the Year

(inserting the current Year for which such Book is to be in use), and every Sheriff on quitting his Office shall deliver the same to the succeeding Sheriff, and every "Jurors Book" so prepared shall be brought into use on the *First Day of February* after it shall have been so delivered by the Clerk of the Peace, Town Clerk or his Deputy, to the Sheriff or his Under Sheriff, and shall be used for *One Year* then next following, and such Clerk of the Peace or Town Clerk respectively shall also deliver unto the Coroner or Coroners of every County, City, County of a City, and County of a Town, a true and certified Copy of such "Jurors Book" to be brought into use at the same Periods and for the same Time; provided always, that the "Jurors Book" of the County of Dublin and County of the City of Dublin respectively shall be brought into use on *the First Day of January* after such Book shall have been so delivered to the Sheriff of the County of Dublin and Sheriff of the City of Dublin respectively.

See 8 & 9 Vict. c. 67. s. 3.

See 3&4W.4. c. 91. s. 11. 6 G. 4. c. 50. s. 12.

General List of Jurors to be copied into a Book to be called "The Jurors Book," to be delivered to the Sheriff.

"Jurors Book of the County of Dublin, and County of the City of Dublin."

VI. Each and every Clerk of the Peace, or Town Clerk of or acting in or for each and every County, City, County of a City, County of a Town, or Parliamentary Borough in any County in Ireland, or his Deputy, shall, as soon as he has made out in Manner and Form aforesaid the said "General List of Jurors," make out a List in alphabetical Order of the Names of all Persons who shall appear in such "General List of Jurors" either as having Freeholds of the annual Value of not less than *Fifty Pounds*, or as being rated to the Relief of the Poor in respect of Lands, Tenements, and Hereditaments within such respective County of the net annual Value of not less than *Sixty Pounds*, and as being rated to the Poor in respect of Lands, Tenements, and Hereditaments in such City, County of a City, County of a Town, or Parliamentary Borough of the net annual Value of not less than *Sixty Pounds*, and shall prefix to every Name in such List its proper Number, beginning the Numbers from the First Name and continuing them in a regular arithmetical Series down to the last Name,

"Special Jury List" and "Special Jurors Book." See 3 & 4 W. 4. c. 91. s. 24.

and which List when so made out shall be called "The General List of Special Jurors," and shall be according to the Form (B.) in the Second Schedule to this Act annexed, and shall contain in proper Columns the Christian Name and Surname written at full Length, the true Place of Abode, Amount of Rating, and other Qualifications of the Persons named therein, and such "List" shall at the Foot thereof be signed by the Clerk of the Peace, Town Clerk, or his Deputy, under his Hand, and which "List" shall be kept amongst the Records of the County, City, County of a City, or County of a Town, to be inspected, and the Clerk of the Peace or Town Clerk shall cause such "General List of Special Jurors" to be duly and fairly copied in alphabetical Order into a Book to be by him provided for that Purpose at the Expense of the County, City, County of a City, or County of a Town respectively, and shall forthwith deliver the same to the Sheriff of the County, City, County of a City, or County of a Town, or his Under Sheriff, duly certified by such Clerk of the Peace, Town Clerk, or his Deputy, which Book shall be called "The Special Jurors Book" for the Year

(inserting the Year for which it is to be in use), and every Sheriff on quitting his Office shall deliver the same to the succeeding Sheriff, and every "Special Jurors Book" so prepared shall be brought into use on the *First Day of February*, after it shall be so delivered by the Clerk of the Peace to the Sheriff or his Under Sheriff, and shall be used for *One Year* then next following: Provided always, that the "Special Jurors Book" of the County of Dublin, and County of the City of Dublin respectively shall be brought into use on the *First Day of January* after such Book shall have been so delivered to the Sheriff of the County of Dublin and County of the City of Dublin respectively.

The Court of Queen's Bench, or any Judge thereof, empowered to correct the said "Lists and Books." See 8 & 9 Vict. c. 67. s. 4.

VII. Provided always, That if the said "General List of Jurors," "Jurors Book," "General List of Special Jurors," or "Special Jurors Book" shall be found to contain any Name which shall not be contained in the said "revised and signed Lists of Parliamentary Voters," or if any Name which shall be contained in any of such revised and signed Lists of Parliamentary Voters shall not appear in such "General List of Jurors," "General List of Special Jurors," or "Jurors Book," or "Special Jurors Book," according to the Provisions and Directions aforesaid, it shall be lawful for Her Majesty's Court of Queen's Bench in Dublin, or any Judge of the said Court, upon Complaint thereof made to the said Court or Judge, to order the said Sheriff or Under Sheriff, and the Clerk of the Peace or Town Clerk respectively, to produce the said "revised and signed Lists of Voters," the said "General List of Jurors," "General List of Special Jurors," the said "Jurors Book," and the said "Special Jurors Book" (according to the Nature of the Complaint) to the said Court or Judge, and if

if upon Inspection of the said "General List of Jurors," or "General List of Special Jurors," or the said "Jurors" or "Special Jurors Book," and the said revised and signed Lists, any such Error shall be found in the said "General List of Jurors," "General List of Special Jurors,' or "Jurors Book," or "Special Jurors Book," the said Court or Judge shall order the same to be amended, and such Amendment shall be forthwith made and signed by the said Sheriff or Under Sheriff, and Clerk of the Peace or Town Clerk, in the Presence of the said Court or Judge.

Grand Juries empowered to present the Expenses of Lists and Jurors Books. See 8 & 9 Vict. c. 57. s. 6.

VIII. It shall and may be lawful for the Grand Jury of each County, County of a City, and County of a Town from Time to Time, at the next ensuing Assizes or presenting Term, and they are hereby empowered, and if they shall so think fit, without previous Application at Presentment Sessions or otherwise, to present such Sum of Money as they shall deem reasonable for defraying the Expense of making such "General List of Jurors," "General List of Special Jurors," "Jurors Book," and "Special Jurors Book;" and also for the Town Council of any Borough to order the Payment of such Sum as they shall deem reasonable for defraying the Expense for the same Purposes in Cities, Counties of Cities and Counties of Towns, and to direct Assessments to be made accordingly.

Judges of the Superior Courts, and Judges of Assize, Chairmen of Sessions and Recorders to issue their Precept to the Sheriff to summon Jurors. See 16 & 17 Vict. c. 113. s. 109.

IX. One of the Judges of any of Her Majesty's Courts of Common Law in Dublin shall, at least *Twelve* Days before the First Day of each Term, issue a Precept to the Sheriff of the County of Dublin, and a Precept to the Sheriff of the County of the City of Dublin, and the several Judges of Assize, Judges under a Commission of Oyer and Terminer, Assistant Barristers, Chairman of the General Sessions of the Peace, and Recorders of Cities and Towns, shall at least Days before the Day fixed for the Assizes, or Sessions, or Sittings, issue a Precept to the respective Sheriffs of Counties, Cities, Counties of Cities and Counties of Towns in such Precepts requiring them to summon for the Trial of all Issues whether Civil or Criminal which may come on for Trial during the said Term or Sittings after, at the Assizes, Commission or General Sessions of the Peace or other Sittings, a sufficient Number of Jurors to be taken from the "Jurors Book," so to be delivered by the Clerk of the Peace, selecting the Names of such Jurors alphabetically, so that the Number shall be made up from all the Letters, and in the Order in which their Names stand in such "Jurors Book," taking from each Letter so far as each Letter will allow, an equal Number of Names, and when any Letter does not allow an equal Number, then a proportionate Number from such Letter, so as to make up the aggregate Number of Jurors required by the said Precept, and all such Jurors shall thereupon be summoned in

manner herein-after mentioned to form One Panel, and to serve indiscriminately on the Criminal and Civil Side, and a printed Panel of the Jurors summoned shall *Seven* Days before the First Day in each Term or the Commission Day and First Day of such General Sessions or Sittings (as the Case may be), be made by the Sheriff and kept in the Office of the Sheriffs of the said several and respective Counties, Cities, Counties of Cities, and Counties of Towns, and of the respective returning Officers in Dublin for Inspection, and a printed Copy of such Panel shall be delivered by the Sheriff or Under Sheriff to the Party requiring the same, on Payment of a Fee of *One Shilling*, and such printed Panel shall, in Civil Cases in the Superior Courts, be annexed to the Abstract of the Record for Nisi Prius: Provided always, that the Jurors so to be taken from the "Jurors Book," and summoned to serve at any Quarter Sessions of the Peace, shall be resident within the District in and for which such Sessions are holden; and where Assizes are holden at more than One Place in any County, that the Jurors to be taken from the "Jurors Book" and summoned to serve at such Assizes, be resident in or qualified in respect of Property situate in the particular Division or Riding in and for which such Assizes are holden.

See 6 G. 4. c. 50. s. 22.

See 16 & 17 Vict. c. 113. s. 110.

Sheriff of the County and City of Dublin to summon a sufficient Number of Jurors Seven Days before their Attendance is required. See 16 & 17 Vict. c. 113. s. 111.

X. The Sheriffs of the County of Dublin and County of the City of Dublin respectively shall, pursuant to such Precept under the Hand of a Judge of any of the Superior Courts of Common Law, and when required for the Recorders Court under the Hand of the Recorder of the City of Dublin, and without any other Authority, summon a sufficient Number of Jurors at least *Seven* Days before they shall be required to attend for the Trial of all Issues, Civil and Criminal, which may come on for Trial in the Superior Courts of Common Law and the Consolidated Nisi Prius, or in the Court of Commission, Oyer and Terminer, and Recorders Courts, and which Precept shall be issued at least Days before the Day fixed for the Trial of such Issues, and the said Jurors shall be taken from the "Jurors Book," as hereinbefore mentioned, and so delivered by the Clerk of the Peace of the County of Dublin for the Trial of County Cases in the said several Courts, and by the Clerk of the Peace or Town Clerk of the City of Dublin for the Trial of City Cases in the said several and respective Courts, and the Names of the said Jurors shall be selected from the said "Jurors Book," by the said respective Sheriffs alphabetically, and be made up from all the Letters in the Alphabet, and in the Order in which their Names stand in such "Jurors Book," taking from each Letter, so far as each Letter will allow, an equal Number of Names, and when any Letter does not allow an equal Number, then a proportionate Number from each Letter, to make up the aggregate Number of Jurors required by the said Precept, and all such Jurors shall be summoned

summoned in the Manner herein-after mentioned, and a printed Panel of the Jurors summoned shall *Seven* Days before the Day fixed for their Attendance for the Trial of the said Issues in the said several Courts be made by the said respective Sheriffs of the County of Dublin and County of the City of Dublin, and kept in the Office of the said Sheriffs respectively for Inspection, and a printed Copy of such Panel shall be delivered to the Party requiring the same on Payment of a Sum of *One Shilling*, and such printed Panel shall in Civil Cases in the said Superior Courts be annexed to the Abstract for Nisi Prius, and the said Precept shall and may be in like Form as the Precept issued by the Judges of Assize, and One thereof shall suffice for each Term and Sittings after, or Commission of Oyer and Terminer, or Recorders Court, and for all the Superior Courts of Common Law, and it shall be the Duty of the Sheriffs respectively to apply for and procure such Precept to be issued in sufficient Time before each Term to enable them to summon the Jurors in manner aforesaid, and it shall be lawful for the said several Courts, or any Judge thereof, at any Time to issue such Precept or Precepts to summon Jurors for disposing of the Business pending in such Courts, and to direct the Time and the Place for which such Jurors shall be summoned, and all such other Matters as to such Judge shall seem requisite.

Precept to Summon Special Jurors in Counties, &c. See 16 & 17 Vict. c. 113. s. 112.

XI. The Precept issued by the several Judges of any of the Superior Courts of Common Law in Dublin, for Cases in the County of Dublin, and County of the City of Dublin, and by the several Judges of Assize for the several Counties, Counties of Cities, and Counties of Towns as aforesaid, shall direct the Sheriff to summon a sufficient Number of Special Jurymen to be mentioned therein, not exceeding in Country Cases *Forty-eight*, and in Cases in the County of Dublin and in the County of the City of Dublin *Forty-eight*, to try the Special Jury Cases at the Assizes or consolidated Nisi Prius Court, or in the several Superior Courts of Common Law in Dublin respectively, and the said Names shall be taken from "the Special Jurors Book" in the Manner herein-before mentioned respecting the Names of Common Jurors; and the Persons summoned in pursuance of such Precept shall be the Jury for trying the Special Jury Cases at the Assizes and in the consolidated Nisi Prius Court, or after Sittings of the said Superior Courts respectively, subject to such Right of Challenge as the Parties are now by Law entitled to in the like Cases, and subject to the like Liability as to the Payment of the Costs of obtaining such Special Jury, and a printed Panel of such Special Jurors so summoned shall be made and kept, delivered and annexed to the Abstract of Nisi Prius in like Time and Manner, and upon the same Terms as herein-before provided, with reference to the Panel of Common Jurors: And upon the Trial the Special Jury shall be balloted for and called in

the Order in which they shall be drawn from the Box in the same Manner as Common Jurors as herein-after directed; provided that the Court or a Judge in such Case, as they or he may think fit, may order that a Special Jury be struck in the Manner herein-after mentioned; (that is to say,) within Days after the Rule of the Court or Judge directing such Special Jury to be struck shall have been served on the Sheriff or Under Sheriff of the County, City, County of a City, or County of a Town, in which any Trial is to be had, such Sheriff or Under Sheriff shall forward to the Officer of the Court by which such Order shall have been made a correct Court Copy of the "Special Jurors Book," as furnished by the Clerk of the Peace or Town Clerk of such County, County of a City, or County of a Town, with a Number prefixed to every Name in such Book in a regular arithmetical Series, from the first down to the last Name; and the said Officer at the Time and Place appointed, being attended by such Sheriff or Under Sheriff, or his Returning Officer or Agent, who are hereby respectively required to bring with them such "Special Jurors Book," or a true Copy thereof signed and certified by such Sheriff or Under Sheriff, and such Sheriff or Under Sheriff shall cause the said several Numbers to be written on distinct Pieces of Parchment or Cards, and shall in the Presence of all Parties in any of the Cases aforesaid, and of their Attornies if they respectively choose to attend, or if the said Parties or their Attornies all or any of them do not attend, then in their Absence put all the said Numbers into a Box, to be by him provided for that Purpose, and after having shaken them together shall draw out of the said Box *Twenty-four* of the said Numbers One after another, and shall, as each Number is drawn, refer to the corresponding Number in the "Special Jurors Book" or "true Copy thereof," and read aloud the Name designated by such Number, and if at the Time of so reading any Name either Party or his Attorney shall object that the Person whose Name shall have been so referred to is in any Manner incapacitated from serving on the said Jury, or otherwise legally objectionable, and shall also then and there prove the same to the Satisfaction of the said Officer, such Name shall be set aside, and the said Officer shall instead thereof draw out of the said Box another Number, and shall in like Manner refer to the corresponding Number in the said "Special Jurors Book" or "true Copy thereof," and read aloud the Name designated thereby, which Name may be in like Manner set aside, and other Numbers and Names shall in every such Case be resorted to according to the Mode of proceeding herein-before described for the Purpose of supplying Names in the Places of those set aside, until the whole Number of *Twenty-four* Names, not liable to be set aside, shall be completed; and if in any Case it shall so happen that the whole Number of *Twenty-four* Names cannot be obtained from the "Special Jurors Book," then and in that Case the said Officer shall fairly

Striking Special Juries. See 3 & 4 W. 4. c. 91. s. 25.

fairly and indifferently take according to the Mode of Nomination heretofore pursued in nominating Special Juries such a Number of Names from the "General Jurors Book" as shall be required to make up the full number of *Twenty-four* Names, all and every of which *Twenty-four* Names shall in such Case be equally deemed and taken to be those of Special Jurors; and the said Officer shall afterwards make out for each Party a List of the *Twenty-four* Names in the Order in which they shall have been drawn as aforesaid, together with their respective Places of Abode and Additions; and after having made out such List, shall return all the Numbers so drawn out together with all the Numbers remaining undrawn to such Sheriff or Under Sheriff or his Agent, to be by such Sheriff or Under Sheriff safely and securely kept for future Use, and all other Matters whatsoever relating to Special Juries shall remain and continue in force as heretofore, except where the same or any Part thereof are expressly altered by this Act.

Precept to summon Jurors. See 16 & 17 Vict. c. 113. s. 109.

XII. No Jury Process shall be necessary or used in any Action, but the Precept issued by the Judges of the Superior Courts, Judges of Assize, Assistant Barrister or Chairman of Quarter Sessions, or Recorder of any City, to the Sheriff, to summon Jurors for the Superior Courts, Assizes, Court of Commission of Oyer and Terminer, Sessions Civil Bill or Recorders Court, shall direct that the Jurors be summoned for the Trial of all Issues, whether Civil or Criminal, which may come on for Trial at the Superior Courts, Assizes, or Quarter Sessions, or Recorders Court; And the Jurors shall be thereupon summoned, in manner herein-after mentioned, and every Summons requiring the Attendance of any Juryman, Common or Special, shall be duly and properly filled and signed by the Sheriff or Under Sheriff of the several Counties, Cities, Counties of Cities, and Counties of Towns, previous to such Summons being delivered to the Bailiff or other Officer of the said Sheriff or Under Sheriff for Service thereof.

Summons of Jurors to be signed by the Sheriff.

Superior Courts to have the Power of ordering Special Juries to be struck. 3 & 4 W. 4. c. 91. s. 23.

XIII. It is and shall be lawful for Her Majesty's Courts of Queen's Bench, Common Pleas, and Exchequer in Ireland respectively, upon Motion made on behalf of the Queen, or upon the Motion of any Prosecutor, Relator, or Plaintiff, or of any Defendant in any Case whatsoever, whether Civil or Criminal, or on any Penal Statute (except only Indictments for Treason or Felony), depending in any of the said Courts, and the said Courts and Judges respectively are hereby authorized and required, in any of the Cases before mentioned, to order and appoint a Special Jury to be struck before the proper Officer of each respective Court, for the Trial of any Issue joined in any of the said Cases, and triable by a Jury, in such Manner as herein directed for the striking

striking of Special Juries, and every Jury so struck shall be the Jury returned for the Trial of such Issue; and the Plaintiff in any Action (except for the Replevin of Goods) shall be entitled to have the Cause tried by a Special Jury upon giving Notice in Writing to the Defendant at such Time as would be necessary for a Notice of Trial of his Intention that the Cause shall be so tried; and the Plaintiff in an Action for the Replevin of Goods, and the Defendants in other Cases shall be so entitled on giving the like Notice within *Six* Days before the first Day of the After-sittings or Assizes respectively; provided that the Court or Judge may at any time order that a Cause shall be tried by a Special Jury upon such Terms as they or he shall think fit.

See 16 & 17 Vict. c. 113. s. 109.

Costs of Special Juries. See 3 & 4 W. 4. c. 91. s. 27.

XIV. The Person or Party who shall apply for a Special Jury shall pay the Fees for striking such Jury, and all the Expenses occasioned by the Trial of the Cause by the same, and shall not have any further or other Allowance for the same upon Taxation of Costs than such Person or Party would be entitled unto in case the Cause had been tried by a Common Jury, unless the Judge before whom the Cause is tried shall immediately after the Trial certify under his Hand upon the Back of the Record that the same was a Cause proper to be tried by a Special Jury.

See 16 & 17 Vict. c. 113. s. 114. Remedy where Notice of Special Jury is given for Delay.

XV. When the Defendant in any Case or Plaintiff in any Action for the Replevin of Goods, gives Notice of his Intention to try the Cause by a Special Jury, the Court or a Judge, if satisfied that such Notice is for the Purpose of Delay, may order that the Cause be tried by a Common Jury, or make such other Order for the Trial of the Cause as such Court or Judge shall think fit.

Notice to Sheriff of Trial by Special Jury. See 16 & 17 Vict. c. 113. s. 115.

XVI. When Notice has been given to try by Special Jury, either Party may *Six* Days before the First Day of the Sittings in Dublin or Commission Day of the Assizes, give Notice to the Sheriff that such Action is to be tried by a Special Jury; and in case no such Notice be given, or the Notice has not been given in sufficient Time, no Special Jury need be summoned to attend, and the Cause may be tried by a Common Jury, unless otherwise ordered by the Court or a Judge.

View Jurors See 3 & 4 W. 4. c. 91. ss. 16. and 17, 16 & 17 Vict. c. 113. s. 116.

XVII. Where in any Case either Civil or Criminal, or on any Penal Statute depending in any of the said Queen's Courts of Record in Dublin, it shall appear to any of the said respective Courts, or to any Judge thereof in Vacation, that it will be proper and necessary that the Jurors, or some of the Jurors who are to try the Issue in such Case, should have the View of the Place in question, in order to their better under-

understanding the Evidence that may be given upon the Trial of such Issues; in every such Case such Court or any Judge thereof in Vacation may order a Rule to be drawn up containing the usual Terms, and also requiring, if such Court or Judge shall so think fit, the Party applying for the View to deposit in the Hands of the Sheriff a Sum of Money to be named in the Rule for Payment of the Expenses of the View, and directing a special Precept to issue, by which the Sheriff or other Officer to whom the said special Precept shall be directed, shall be commanded to have *Six* or more of the Jurors named in such Precept (who shall be mutually consented to by the Parties, or if they cannot agree, shall be nominated by the proper Officer for the respective Courts of Queen's Bench, Common Pleas, or Exchequer in Dublin for the Causes in their respective Courts) at the Place in question, some convenient Time before the Trial, who then and there shall have the Place in question shown to them by Two Persons in the said Precept named to be appointed by the Court or Judge, and the said Sheriff or other Officer who is to execute any such special Precept, shall, by a special Return upon the same, certify that the View hath been had according to the Command of the same, and shall specify the Names of the Viewers; and where a View shall be allowed in any Case those Men who have had the View, or such of them as shall appear upon the Jury to try the Issue and shall not be challenged off, shall be first sworn, and so many only shall be added to the Viewers who shall appear, as shall, after all Defaulters and Challengers allowed, make up a full Jury of *Twelve*.

XVIII. No Justice of the Peace shall be summoned or impannelled as a Juror to serve at any Sessions of the Peace for the Jurisdiction of which he is a Justice.

See 6 Geo. 4. c. 60. s. 48., 3 & 4 W. 4. c. 91. s. 38.

XIX. The Sheriff of any County, City, County of a City, or County of a Town shall not in any Answer to any Precept for the Return of Jurors return the Names of any Persons not contained in the "Jurors Book" or "Special Jurors Book" for the Year then current, (except in the Cases herein-after mentioned,) and where a Precept for returning a Jury for a Trial by any Issue shall be directed to any Coroner, Elizor, or other Minister, he shall have free access to the "Jurors Books" and "Special Jurors Book" for the current Year, and shall not return the Names of any Persons not contained in the said "Jurors Books:" Provided always, that if there be no "Jurors Book" or "Special Jurors Book" in existence for the current Year, it shall be lawful to return Jurors from the "Jurors Book" or "Special Jurors Book" for the Year preceding. And if it shall happen that any Person not in the "Jurors Book" shall be returned and any Trial shall proceed and a Verdict be found without any Objection to any

Sheriff not to return any Names not in the "Jurors Book," &c. [except in Cases where no Books have been delivered.] See 3 & 4 W. 4. c. 91. s. 11.

such Person as a Juror, such Trial shall not be deemed a Mis-trial, nor shall the Verdict thereon be impeached or questioned on account of the Return of such Juror.

Jurors Summons. See 3 & 4 W. 4. c. 91. s. 18.

XX. The Summons of every Man to serve on Juries, not being Special Juries in any of the Courts aforesaid, shall be made by an Officer or Officers to be appointed by the Sheriff or Under Sheriff for that Purpose *Seven* Days at the least before the Day on which the Juror is to attend, by showing to the Man to be summoned, or in case he shall be absent from the usual Place of his Abode, by leaving with some Person there inhabiting a Copy under the Hand of the Sheriff or other proper Officer of such Summons; and the Summons of every Man to serve on Special Juries in any of the Courts aforesaid shall be made by the like Persons and in the like Manner as aforesaid, *Five* Days at the least before the Day on which the Special Juror is to attend; and if any Man having been duly summoned to attend on any kind of Jury in any of the Courts in this Act mentioned shall not attend in pursuance of such Summons, or being thrice called shall not answer to his Name, or if any such Man or any Talesman after having been called shall be present but not appear, or after his Appearance shall wilfully withdraw himself from the Presence of the Court, the Court shall set such Fine not exceeding the Sum of *Fifty Pounds* upon every such Man or Talesman so making Default, (unless some reasonable Excuse shall be proved by Oath or Affidavit,) as to the Court shall seem meet: Provided always, that where any Viewer having been duly summoned to attend on any Jury shall make Default as aforesaid, the Court is hereby authorized and required to set upon such Viewer (unless some reasonable Excuse shall be proved as aforesaid,) a Fine to the Amount of *Ten Pounds* at the least, and as much more as the Court under the Circumstances of the particular Case shall think proper, not exceeding the Sum of *Fifty Pounds*.

Names of Jurors to be ballotted for, in civil Cases. See 3 & 4 W. 4. c. 91. s. 19.

XXI. The Name of each Man who shall be summoned and impannelled in any Court of Assize or Nisi Prius, or Consolidated Nisi Prius, with the Place of his Abode and Addition shall be written on a distinct Piece of Parchment or Card, all as nearly as may be of an equal Size, and shall be delivered unto the Clerk or Registrar of the Judge of Assize or Nisi Prius, or Consolidated Court of Nisi Prius, who is to try the Cause by the Sheriff or Under-Sheriff of the County, City, County of a City, or County of a Town, or other Officer returning the Process, and shall by Direction and Care of such Clerk or Registrar be put together in a Box to be provided for that Purpose; and when any Issue shall be brought on to be tried, such Clerk or Registrar shall in open Court draw out *Twelve* of the said Parchments or Cards One after another, after having shaken them together, or in Cases where any

any View shall have been directed and had as aforesaid, so many as together with the Viewers who shall appear and shall be sworn, shall be sufficient to make up the Number of *Twelve*, and if any of the Men whose Names shall be so drawn shall not appear, or shall be challenged and set aside, then such further Number, until *Twelve* Men or such other Number as together with such Viewers so appearing and sworn as aforesaid shall make up the Number of *Twelve* be drawn, who shall appear, and who after all just Causes of Challenge allowed shall remain as fair and indifferent; and the said *Twelve* Men, their Names being marked in the Panel and they being sworn, shall be the Jury to try the Issue, and the Names of the Men so drawn and sworn shall be kept apart by themselves until such Jury shall have given in their Verdict and the same shall be recorded, or until such Jury shall by Consent of the Parties or by Leave of the Court be discharged, and then the same Names shall be returned to the Box, there to be kept with the other Names remaining at that Time undrawn, and so toties quoties as long as any Issue remains to be tried: Provided always, that if any Issue be brought on to be tried in any of the said Courts before the Jury in any other Issue shall have brought in their Verdict or been discharged, it shall be lawful for the Court to order *Twelve* of the Residue of the said Parchments or Cards not containing the Names of any of the Jurors who shall not have so brought in their Verdict or been discharged, to be drawn in such Manner as aforesaid for the Trial of the Issue which shall be so brought on to be tried; provided also, that when both Parties shall consent thereto, it shall be lawful for the Court to try any Issue with the same Jury that shall have previously tried or been drawn to try any other Issue, without their Names being restored to the Box and redrawn, or to order the Name or Names of any Man or Men on such Jury when both Parties may consent to withdraw or who may justly be challenged or excused by the Court, to be set aside, and another Name or other Names to be drawn from the Box, and to try the Issue with the Residue of such original Jury, and with such Man or Men whose Name or Names shall be so drawn, and who shall appear and be approved as indifferent, and so toties quoties as long as any Issue remains to be tried.

Want of Qualification Ground of Challenge See 3 & 4 W. 4. c. 91. s. 20.

XXII. If any Man shall be returned as a Juror for the Trial of any Issue, Criminal or Civil, in any of the Courts herein-before mentioned who shall not be qualified according to this Act, the Want of such Qualification shall be a good Cause of Challenge, and he shall be discharged upon such Challenge if the Court shall be satisfied of the Facts; provided always, that no Challenge shall be taken to any Panel of Jurors for want of a Knight being returned on such Panel, nor any Array quashed by reason of any such Challenge, any Law, Custom, or Usage to the contrary notwithstanding.

No Challenge for want of a Knight.

Courts may direct Tales. See 3 & 4 W. 4. c. 91. s. 28.

XXIII. Where a full Jury shall not appear before any Court of Assize, Court of Commission of Oyer and Terminer, or Court of Nisi Prius, Consolidated Nisi Prius, Quarter Sessions, or Recorders Court in any Criminal Prosecution properly triable in such Court, or in any Suit or Action where after Appearance of a full Jury, by Challenge of any of the Parties the Jury is likely to remain untaken for default of Jurors, every such Court, upon Request made for the Queen by any One thereto authorized or assigned by the Court in Cases of such Criminal Prosecutions as aforesaid, or on Request made by the Parties, Plaintiff or Demandant, Defendant or Tenant, or their respective Attornies, in any Action or Suit, whether popular or private, shall command the Sheriff or other Officer to whom the making of the Return shall belong, to name and appoint as often as Need shall require *Twelve* other able Men, and duly qualified as herein-before mentioned, of the County, City, County of a City, or County of a Town then present, and the Sheriff or other Officer aforesaid shall at such Command of the Court return *Twelve* such Men duly qualified, who shall be present, or can be found to serve on such Jury, and shall add and annex their Names to the former Panel; provided that where a special Jury shall have been struck for the Trial of any Issue the Talesman shall be such as shall be empannelled upon the "Special Jury List," if a sufficient Number of such Men can be found, and if not, then such as shall be empannelled upon the Common Jury List, and the Names of the Persons so to be named, with their Additions and Places of Abode, shall be written on several distinct Pieces of Parchment or Cards, being all as near as may be of equal Size, and shall be delivered to the Clerk or Registrar of the Judge before whom such Issue is to be tried, by the Sheriff or other Officer to whom the returning of such Jury shall belong, and shall by the Direction and Care of such Clerk or Registrar be rolled up as near as may be in the same Manner, and put together in a Box or Drawer, and shaken together, and the said Clerk or Registrar, or other indifferent Person, by Direction of the Court, in open Court, shall draw out such Pieces of Parchment or Card one after another until a Number shall appear which shall be sufficient, with those of the original Panel who appear, to make up the Number of *Twelve* who shall be the Jury to try such Issue, and the Queen by any one so authorized or assigned as aforesaid, and all and every the Parties aforesaid, shall and may in each of the Cases aforesaid respectively have their respective Challenges to the Jurors so added and annexed, and the Court shall proceed to the Trial of every such Issue with those Jurors who were before empannelled, together with the Talesman so newly added and annexed, as if all the said Jurors had been returned upon the Precept issued for the Trial of Issues as herein-before mentioned.

XXIV. In

XXIV. In any County, City, County of a City, County of a Town, or Recorders Court, in which the Judges of the Superior Courts in Dublin, or the Judges of Assize, or the Chairman of any Court of Quarter Sessions or Recorders Court shall think fit to direct, the Sheriff or other Officer to whom said Precept to summon Jurors for the Trial of any Causes, Civil or Criminal, shall be directed, shall summon and empannel such Number of Jurors, not exceeding *One Hundred and forty-four*, as such Judges or Chairman respectively shall think fit to direct, to serve indiscriminately on the Criminal and Civil Side, and that where such Judges, or Chairman, or Recorders, respectively shall so direct the Sheriff or other Officer shall divide such Jurors equally into Two Sets, the First of which Sets shall attend and serve for so many Days at the Beginning of such Sittings, Assizes, or Sessions as such Judges, or Chairman, or Recorders respectively shall within a reasonable Time before the Commencement of such Sittings, Assizes, or Sessions respectively think fit to direct, and the other of which Sets shall attend and serve for the Residue of such Sittings, Assize or Sessions: Provided always, that such Sheriff or other Officer shall in the Summons to the Jurors in each of such Sets specify whether the Juror named therein is in the First or Second Set, and at what Time the Attendance of such Juror will be required, and the Sheriff or other Officer to whom the Precept for summoning of Jurors for the Trial of Causes doth belong, shall return a Panel containing the Names alphabetically arranged, together with the Additions and Places of Abode of the Jurors in each of such Sets, and during the Attendance and Service of the First of such Sets, the Jury on the Civil and Criminal Sides shall be drawn from the Names of the Persons in that Set, and during the Attendance and Service of the Second of such Sets from the Names of the Persons in such Second Set: Provided also, that in any Case wherein an Order for a View shall have been obtained as herein-before mentioned, it shall be lawful for the Judge before whom such Case is to be tried, and he is hereby required on the Application of the Party obtaining such Order to appoint such Case to be tried, during the Attendance and Service of that Set of Jurors in which the Viewers or the major Part of them are included.

Judges may direct Two sets of Jurors to be summoned. See 6 Geo. 4. c. 50. s. 22.

XXV. The Sheriff or his Under Sheriff shall from Time to Time register alphabetically in proper Columns, to be prepared in "the Jurors Book" for that Purpose, the Services of such Men as shall be summoned and shall attend to serve as Jurors on Trials, before any Court of Assize or Nisi Prius, Oyer and Terminer, or Gaol Delivery, or in the said Courts of Quarter Sessions or Recorders Courts, in the several Counties, Cities, Counties of Cities, or Counties of Towns in Ireland, and also the Times of their Services, and every Man so summoned,

Sheriff to register alphabetically in "the Jurors Book" the Services of Jurors summoned. See 6 G. 4. c. 50. s. 40.

Certificate of Service.

moned, and having duly attended or served until discharged by the Court, shall, upon Application by him made to such Sheriff or Under Sheriff before he shall depart from the Place of Trial, receive a Certificate testifying such his Service, which Certificate the Sheriff or Under Sheriff is hereby required to give on Payment of *One Shilling;* provided always, that nothing herein contained shall extend to any Grand Jurors or Special Jurors.

No Man to be returned who has served in Counties, &c. within One Year, and who has a Certificate of such Service. See 6 G. 4. c. 50. s. 42.

XXVI. No Man shall be returned as a Juror to serve on Trials before any Court of Assize, Nisi Prius, Oyer and Terminer, or Gaol Delivery, or any of the said Superior Courts in Dublin, or Consolidated Nisi Prius Court, who has served as a Juror in any of such Courts within *One Year* before in any such County, City, County of a City, or County of a Town, and has the Sheriff's Certificate for having so served, and no Man shall be returned to serve upon any Grand Jury or Petty Jury at any Quarter Sessions of the Peace or Recorders Court, to be holden for any County, City, County of a City, County of a Town, Riding, or Division in Ireland, who has served as such Juror at any such Session within *One Year* before, and has the Certificate of the Clerk of the Peace of having so served; and if any Sheriff or other Officer shall wilfully transgress in any of the Cases aforesaid, the Court may and is hereby required on Examination and Proof of every such Offence in a summary Way, to set such Fine upon every such Offender as the Court shall think meet, not exceeding the Sum of *Twenty Pounds;* provided that nothing herein contained shall extend to Grand Jurors at Assizes, or to Special Jurors.

Sheriff, &c., not to take any Money, &c. to excuse any Person from serving. See 6 G. 4. c. 50. s. 43.

XXVII. No Sheriff, Under Sheriff, Coroner, Elisor, Bailiff, or other Officer or Person whomsoever, shall directly or indirectly take or receive any Money or other Reward, or Promise of Money or Reward, or any Consideration whatsoever, or the Promise of any Consideration to excuse any Man from serving or from being summoned to serve on Juries, or under any such Colour or Pretence, and no Bailiff or other Officer appointed by any Sheriff, Under Sheriff, Coroner, or Elisor to summon Juries, shall summons any Man to serve thereon other than those whose Names are specified in a Warrant or Mandate, signed by such Sheriff, Under Sheriff, or Elisor, and directed to such Bailiff or other Officer; and if any Sheriff, Under Sheriff, Coroner, Elisor, Bailiff, or other Officer shall wilfully transgress in any of the Cases aforesaid, or shall neglect to summon any Juror any Number of Days less than the Number herein-before appointed for that Purpose, the Court of Assize, Nisi Prius, Consolidated Nisi Prius, Oyer and Terminer, Gaol Delivery, or Court of Sessions of the Peace, or Recorders Court, (within whose Jurisdiction such Offence shall have been committed,) may and is hereby required on Examination and

and Proof of such Offence in a summary Way, to set such a Fine upon any Person so offending as the Court shall think meet, according to the Nature of the Offence.

Jurors summoned not to depart without Leave. See 3 & 4 W. 4. c. 91. s. 32.

XXVIII. If any Man having been duly summoned to attend on any kind of Jury in any of the Courts in this Act mentioned, shall not attend in pursuance of such Summons, or being thrice called shall not answer to his Name, or if such Man or any Talesman after having been called, shall be present but not answer, or after his Appearance shall wilfully withdraw himself from the Presence of the Court, the Court shall set such Fine upon every such Man or Talesman making default (unless some reasonable Excuse shall be proved by Oath or Affidavit as the Court shall think fit: Provided always, that where any Viewer having been duly summoned to attend on any Jury, shall make default as aforesaid, the Court is hereby authorized and required to set upon such Viewer (unless some reasonable Excuse shall be proved as aforesaid) a Fine to the Amount of *Ten Pounds* at the least, and as much more as the Court under the Circumstances of the particular Case shall think proper, not exceeding *Fifty Pounds*.

Power to the Superior Courts to change the Venue where same is laid in any County of a City, &c. See 3 & 4 W. 4. c. 91. s. 21.

XXIX. In every Action, whether the same be transitory or local, which shall be prosecuted or depending in any of Her Majesty's Courts of Record in Ireland, and in every Indictment removed into Her Majesty's Court of Queen's Bench in Ireland by Writ of Certiorari, and every Indictment found by any Term Grand Jury of the County of Dublin or of the County of the City of Dublin in Her Majesty's Court of Queen's Bench in Ireland, and in every Information filed by Her Majesty's Attorney General or Solicitor General in Ireland, or by Leave of the Court of Queen's Bench in Ireland, and in all Cases where any Person or Persons shall plead to or traverse any of the Facts contained in the Return to any Writ of Mandamus in Ireland, if the Venue in such Action, Indictment, or Information be laid in any County of a City, County of a Town, or Town Corporate in Ireland, or if such Writ of Mandamus be directed to any Person or Persons or Body Politic or Corporate in Ireland, it shall and may be lawful for the Court in which such Action, Indictment, Information, or other Proceedings shall be depending, at the Prayer and Instance of any Prosecutor or Plaintiff, or of any Defendant, to direct the Issue or Issues joined in such Action, Indictment, Information, or Proceeding to be tried by a Jury of the County next adjoining to such County of a City, County of a Town, or Town Corporate, and to issue a proper Precept accordingly, if the said Court shall think fit and proper so to do.

Penalties for Neglect of

XXX. If any Clerk of the Peace or Town Clerk shall refuse or wilfully neglect to cause such General List of Jurors to be made out

Duty by Clerk of the Peace or Town Clerk, or Sheriff. See 3 & 4.W. 4. c. 9. s. 25.

in the Manner herein-before directed, or shall refuse or wilfully neglect to provide or prepare the "Jurors Book" or "Special Jurors Book" within the Time or in the Manner and Form herein-before prescribed, or to deliver the same to the Sheriff or Under Sheriff within the Time herein-before prescribed, or to give Notice to the Sheriff or Under Sheriff of any wrongful Insertion or Omission therein, or if any Sheriff or Under Sheriff shall make or cause to be made any Alteration whatsoever in the List of Jurors contained in the said "Jurors Books" except in the Cases herein-before provided for, or if any Sheriff or Under Sheriff of the County shall wilfully neglect or refuse to provide or prepare a "Special Jurors Book" in the Manner and within the Time herein-before prescribed, or shall wilfully write or cause to be written in the said List or Books the Name of any Person not qualified, or shall wilfully omit thereout the Name of every Person duly qualified as a Juror or special Juror, or shall neglect or refuse to write or cause to be written the several Numbers contained in such List upon distinct Pieces of Parchment or Card in the Manner and within the Time herein-before prescribed, or shall subtract or destroy, or by any Neglect or Default lose any of the said Pieces of Parchment or Card, or shall wilfully neglect or refuse upon Discovery of such Loss to supply the same, or if any Sheriff or Under Sheriff shall refuse or wilfully neglect within *Ten* Days after the next succeeding Sheriff shall have entered upon Office to deliver over to him as well all the said "Jurors Books" which shall be made or prepared in the Year of his Shrievalty as also such other like Books and Lists as were prepared in the Shrievalty of any of his Predecessors within Four Years then next preceding, and which were delivered over to him by any of his Predecessors, every such Clerk of the Peace, Sheriff or Under Sheriff offending in any of the said Cases shall, for every such Offence, forfeit the Sum of *One hundred Pounds*, One *Moiety* whereof shall be to the Use of Her Majesty, Her Heirs or Successors, and the other *Moiety* with full Costs to such Person as shall sue for the same in any of Her Majesty's Courts of Record at Dublin by Action of Debt, Bill, Plaint, or Information, wherein no Essoign, Protection, or Wager of Law, or more than One Imparlance shall be allowed.

Aliens entitled to a Jury de medietate Linguæ. 6 G. 4. c. 50. s. 47. See 3 & 4 W. 4. c. 91, s. 37.

XXXI. Provided always, That nothing herein-contained shall extend or be construed to extend to deprive any Alien indicted or impeached of any Felony or Misdemeanor of the Right of being tried by a Jury de medietate Linguæ, but that on the Prayer of every Alien so indicted or impeached the Sheriff or other proper Officer shall, by Command of the Court, return for *One Half* of the Jury a competent Number of Aliens, if so many there be, in the Town or Place where the Trial is had, and if not, then so many Aliens as shall be found in the

the same Town or Place (if any), and that no such Alien Juror shall be liable to be challenged for Want of Qualification required by this Act, but every such Alien may be challenged for any other Cause in like Manner as if he were qualified by this Act.

Inquiry Jurors, and Coroners Jurors. See 3 & 4 W. 4. c. 91. s. 40. See 9 & 10 Vict. c. 37. ss. 22 and 23. See 6 G. 4. c. 50. s. 52.

XXXII. No Man shall be summoned or empanelled to serve as a Juror in Ireland upon any Inquest or Inquiry to be taken or made by or before any Sheriff, Justice of the Peace, or Coroner, or by or before any Commissioners appointed under the Great Seal or the Seal of the Court of Exchequer, who shall not be duly qualified according to this Act to serve as a Juror upon Trials in Civil or in Criminal Cases, and every Coroner in every County, City, County of a City, or County of a Town in Ireland, when and as often as he shall hold any Inquest by virtue of his Office in any District, shall issue his Precept to the Sub-Inspector of such District, or in his Absence to the Head or other Constable acting for him, to summon a sufficient Number of Persons named in the said "Jurors Book" to attend and be sworn as Jurors upon such Inquest at the Time and Place specified in such Precept, and such Sub-Inspector or Constable shall summon or cause to be summoned in Writing as Jurors upon such Inquest such Persons resident within the District, and duly qualified under the Provisions of this Act, and whose Names shall be contained in the "Jurors Book" of such County, City, County of a City, or County of a Town; provided always that if the Attendance of a sufficient Number of Jurors qualified as aforesaid cannot conveniently be had, it shall be lawful for such Sub-Inspector or Constable as aforesaid to summon or cause to be summoned, such and so many other fit and proper Persons being Householders, and residing within the District where such Inquests shall be holden, as shall be necessary to attend and be sworn as Jurors upon such Inquest; provided always, that no Person who is now exempted from serving upon Juries under and by virtue of this or any other Act shall be liable to be summoned as a Juror upon any Inquest to be holden as aforesaid.

Penalties on Jurors summoned on Inquests for Non-attendance, or other Default. See 3 & 4 W. 4. c. 91. s. 41.

XXXIII. If any Man having been duly summoned and returned to serve as a Juror upon any Inquest or Inquiry before any Sheriff, Justice of the Peace, or Justices of the Peace, or Coroner, or before any of the Commissioners aforesaid, shall not, after being openly called three Times, appear, and Service of such Summons being duly proved, every such Sheriff, or in his Absence the Under Sheriff, and such Justice of the Peace and such Coroner and Commissioners respectively, are hereby authorized and required, unless some reasonable Excuse shall be proved on Oath or Affidavit, to impose such Fine upon every Man so making default as they shall respectively think fit, not exceeding *Five Pounds;* and every such Sheriff, Under Sheriff, Justice of the

Peace, Justices of the Peace, Coroner and Commissioners respectively, shall make out and sign a Certificate containing the Christian and Surname, the Residence and Trade or Calling of every Man so making default, together with the Amount of the Fine imposed, and the Cause of such Fine, and shall transmit such Certificate to the Clerk of the Peace or Town Clerk for the Place in which every such Defaulter shall reside, on or before the First Day of the Quarter Session next ensuing, and every such Clerk of the Peace and Town Clerk is hereby required to copy the Fines so certified on the Roll on which all Fines and Forfeitures imposed at such Quarter Sessions shall be copied, and the same shall be estreated, levied, and applied in like Manner and subject to the like Powers, Provisions, and Penalties in all respects as if they had been Part of the Fines imposed at such Quarter Sessions.

Fines imposed by this Act. See 3 & 4 W. 4. c. 91. s. 42.

XXXIV. All Fines to be imposed under this Act by any of the Queen's Courts of Record at Dublin, or by any Court of Assize, Nisi Prius, Oyer and Terminer, or Gaol Delivery, or any Court of Quarter Sessions of the Peace, or Recorders Court in Ireland, shall be levied and applied in the same Manner as any other Fines imposed by the same Court, and that all other Penalties hereby created (for which no other Remedy is given), shall, on Conviction of the Offender before any One Justice of the Peace within the Jurisdiction, be levied, unless such Penalty be forthwith paid, by Distress and Sale of the Offender's Goods and Chattels, by Warrant under the Hand and Seal of such Justice, who is hereby authorized to hear and examine Witnesses on Oath or Affirmation on any Complaint, and to determine the same, and to mitigate the Penalty, if he see fit, to the Extent of *One Moiety* thereof; and all Penalties, the Application whereof is not hereinbefore particularly directed, shall be paid to the Complainant; and for Want of sufficient Distress the Offender shall be committed, by Warrant under the Hand and Seal of such Justice, to the Common Gaol or House of Correction for such Term, not exceeding *Six Calendar* Months, as such Justice shall think proper, unless such Penalty shall be sooner paid.

Conviction for Offences under this Act. See 3 & 4 W. 4. c. 91. s. 43.

XXXV. And for the more easy and speedy Conviction of Offenders against this Act, be it enacted, That the Justice before whom any Person shall be convicted of any Offence against this Act shall and may cause the Conviction to be drawn up in the following Form of Words, or in any other Form of Words to the same Effect as the Case shall happen; viz.

'BE it remembered that on , in the Year of our
'Lord *A. B.* is convicted before me, *C. D.*,
'(One of Her Majesty's Justices of the Peace for the
of

'of) for that he, the said *A. B.* did [specifying 'the Offence and the Time and Place where the same was committed, 'as the Case shall be]. And the said *A. B.* is for his said Offence 'adjudged by me, the said Justice, to forfeit and pay the Sum 'of Pounds.

'Given under my Hand and Seal the Day and Year first above 'mentioned.'

Conviction not to be quashed for Want of Form. 3 & 4 W. 4. c. 91. s. 44.

XXXVI. No such Conviction shall be quashed for Want of Form, or be removed or removeable by Certiorari or by any other Writ or Proceedings whatsoever into any of Her Majesty's Courts of Record at Dublin, and that where any Distress shall be made for any Penalty to be levied by virtue of this Act, the Distress itself shall not be deemed to be unlawful, and the Party making the same be deemed a Trespasser on account of any Defect or want of Form in the Summons, Conviction, Warrant of Distress, or other Proceeding relating thereto, nor shall such Party be deemed a Trespasser ab initio, on account of any Irregularity which shall be afterwards done by him, but the Person aggrieved by such Irregularity shall and may recover full Satisfaction for the special Damage (if any) in an Action upon the Case; first giving Notice in Writing of the Cause of Action to the opposite Party *One Calendar Month* before the Commencement of such Action, but no Plaintiff shall recover in any Action for such Irregularity if Tender of sufficient Amends shall have been made before such Action brought, or if a sufficient Sum of Money to satisfy the Damages and Costs up to that Time shall have been paid into Court after such Action brought by or on behalf of the Party distraining.

Sheriff indemnified in returning any Person whose Name is in the Jurors Book or Special Jurors Book 3 & 4 W. 4. c. 91 s. 33.

XXXVII. Every Sheriff and other Officer to whom the Return of Juries shall belong shall be and is hereby indemnified for summoning, empanelling, and returning any Man named in the said "Jurors Book" or "Special Jurors Book," although he may not be qualified or liable to serve on Juries; and if any Sheriff or other such Officer shall wilfully empanel and return any Man to serve on any Jury before any of the Courts before mentioned (except on the Grand Jury at any Assizes, or on the Grand Jury of the County of Dublin or County of the City of Dublin in every Term) such Man's Name not being inserted in the said "Jurors Book" or "Special Jurors Book" for the current Year, or if such "Jurors Book" and Special Jurors Book," or either of them, hath not been delivered, then in the "Jurors Book" or "Special Jurors Book" (as the Case may be) last delivered, or if any Judge's Registrar or Clerk, Clerk of the Peace, Town Clerk, or other Officer of any of the Courts in this Act mentioned shall wilfully record the Appearance of any Man so summoned and returned who did not really appear, in every such Case the Court shall, upon Examination in a

summary Way, set such Fine upon such Sheriff or Officer, Judge's Registrar, or Clerk of the Peace, or Town Clerk, or other Officer attending, as to the Court shall seem meet, not exceeding the Sum of *Fifty Pounds.*

Venue in all Actions against any Person for anything done in pursuance of this Act to be laid in the County where the Fact was committed. 3 & 4 W. 4. c. 91. s. 46.

XXXVIII. All Actions, Suits, and Prosecutions to be commenced against any Person for any Thing done in pursuance of this Act shall be laid and tried in the County where the Fact was committed, unless where the Defendant or Avowant in such Action, shall be the Sheriff or Under Sheriff, or other Person having the Return of Jury Process in such County, in which it may, at the Option of the Plaintiff, be laid and tried in any such adjoining County, and every such Action, Suit, and Prosecution shall be commenced within *Six* Calendar Months after the Fact committed, and not otherwise; and Notice in Writing of such Cause of Action shall be given to the Defendant or Defendants, or Avowant or Avowants, *One Calendar Month* at least before the Commencement of this Act.

Writ of Attaint abolished. 3 & 4 W. 4. c. 91. s. 47. 6 G. 4. c. 50. s. 60.

XXXIX. From and after the *passing of this Act* it shall not be lawful for the Queen or any One on Her Behalf, or for any Party or Parties in any Case whatsoever, to commence or prosecute any Writ of Attaint against any Jury or Jurors for the Verdict by them given, or against the Party or Parties who shall have Judgment upon such Verdict, and no Inquest shall be taken to inquire of the Concealments of other Inquests, but all such Attaints and Inquests shall henceforth cease, become void, and be utterly abolished, any Law, Statute, or Usage to the contrary notwithstanding.

Embracery. See 3 & 4 W. 4. c. 91. s. 48.

XL. Provided always, That notwithstanding anything herein contained every Person who shall be guilty of the Offence of Embracery, and every Juror who shall wilfully or corruptly consent thereto, shall and may be respectively proceeded against by Indictment or Information, and be punished by Fine and Imprisonment in like Manner as every such Person and Jurors might have been before the passing of this Act.

This Act not to affect Act 19 G. 2. (I.) or 33 Hen. 8. Sess. 1. (E.), or 7 W. 3 (I.) See 3 & 4 W. 4. c. 91. ss. 50 & 52.

XLI. Provided always, That nothing herein contained shall be construed to affect or alter any Part of an Act passed in the Parliament of Ireland in the Nineteenth Year of the Reign of King George the Second, intituled "An Act for accepting the solemn Affirmation or Declaration of the People called Quakers, instead of an Oath in the usual Form;" and nothing in this Act contained shall in any wise be construed or deemed to repeal, alter, or affect an Act made in the First Session of the Thirty-third Year of the Reign of His late Majesty King

King Henry the Eighth, intituled "An Act that Consanguinity or Affinity not being within the Fifth Degree shall be no principal Challenge;" or an Act made in the Parliament of Ireland in the Seventh Year of the Reign of King William the Third, intituled "An Act for Redress of Inconveniences for Want of Proof of the Decease of Persons beyond the Seas, or absenting themselves, upon whose Lives Estates do depend."

This Act not to abridge Powers of Courts. See 3 & 4 W. 4. c. 91. s. 15.

XLII. Provided also, That nothing herein contained shall extend or be construed to extend to alter, abridge, or affect any Power or Authority which any Court or Judge in this Act mentioned now hath, in issuing any Precept, or making any Award or Order, orally or otherwise, for the Return of a Jury, Juries, or Jurors, or for amending or enlarging the Panel of Jurors returned for the Trial of any Issue, except in those Cases only where any such Power or Authority, Practice or Form is repealed or altered by this Act, or is or shall be inconsistent with any of the Provisions thereof, nor to abridge or affect any Privilege of Parliament; provided that the Jurors to try any Issue be qualified according to this Act.

Commencement of this Act. See 3 & 4 W. 4. c. 91. s. 50.

XLIII. Those Parts of this Act which relate to the Preparation of Lists of Jurors and the Formation of the "Jurors Book" and "Special Jurors Book," and the Delivery thereof to the Sheriff, and of the Parchment or Cards in the Manner herein-before mentioned, shall commence and take effect so soon after the *passing of this Act* as the proper Periods for doing those Things shall occur; and the rest of this Act shall commence and take effect in the City of Dublin and County of the City of Dublin on the *First Day of January in the Year One thousand eight hundred and fifty-six*, and in every other County, City, County of a City, or County of a Town in Ireland, on the *First Day of February in the said Year One thousand eight hundred and fifty-six*.

SCHEDULES to which the foregoing Act refers.

FIRST SCHEDULE.

ACTS and PARTS of ACTS to be repealed, so far as in the foregoing Act is declared.

Date of Act.	Title of Act.	Extent of Repeal.
No. 1. An Act passed in the Session of Parliament holden in the Third and Fourth Years of the Reign of William the Fourth, Chapter Ninety-one.	No. 1. "An Act for consolidating and amending the Laws relative to Jurors and Juries in Ireland.	No. 1. The whole of this Act, except the 50th Section.
No. 2. An Act passed in the Session of Parliament holden in the Fourth and Fifth Years of the Reign of William the Fourth, Chapter Eight.	No. 2. "An Act to amend an Act passed in the last Session for consolidating and amending the Laws relative to Jurors and Juries in Ireland."	No. 2. The whole of this Act.
No. 3. An Act passed in the Session of Parliament holden in the Second and Third Years of the Reign of Queen Victoria, Chapter Forty-eight.	No. 3. "An Act to amend Two Acts of the Third and Fourth and Fourth and Fifth Years of His late Majesty King William the Fourth, for consolidating and amending the Laws relative to Jurors and Juries in Ireland."	No. 3. The whole of this Act
No. 4. An Act passed in the Session of Parliament holden in the Eighth and Ninth Years of the Reign of Queen Victoria, Chapter Sixty-seven.	No. 4. "An Act for making further Regulations for more effectually securing the Correctness of the Jurors Books in Ireland."	No. 4. The whole of this Act.
No. 5. An Act passed in the Session of Parliament holden in the Twelfth and Thirteenth Years of the Reign of Queen Victoria, Chapter Ninety-one.	No. 5. "An Act to provide for the Collection of Rates in the City of Dublin."	No. 5. Section 87 of this Act, by which the Collector General of the City of Dublin is required to make out the Lists of Persons liable to serve on Juries.
No. 6. An Act passed in the Session of Parliament holden in the Ninth and Tenth Years of the Reign of Queen Victoria, Chapter Thirty-seven.	No. 6. "An Act to amend the Laws relating to the Office of Coroner, and the Expense of Inquests in Ireland."	No. 6. Section 23 of this Act, which regulates the Qualification of Jurors upon Coroners Inquests.
No. 7. An Act passed in the Session of Parliament holden in the Sixteenth and Seventeenth Years of the Reign of Queen Victoria, Chapter One hundred and thirteen.	No. 7. "An Act to amend the Procedure in the Superior Courts of Common Law in Ireland."	No. 7. Section 109, Section 110, Section 111, Section 112, Section 113, Section 114, Section 115, Section 116, and Section 117, which relate to Juries and Jury Process.

SECOND SCHEDULE.

A.

"The GENERAL LIST of JURORS" of the County of *or* County of the City of *or* County of the Town of [*as the Case may be*] for the Years

Numbers in this List.	Christian Name and Surname in alphabetical Order of Surnames.	Place of Abode or Residence.	Annual Value of Freehold, or Amount rated, yearly Value.	Nature of Qualification, whether Lands, or House, or Houses, &c. Rated Occupier or Freeholder.	Name of the Townland, Denomination, or Place, Street, Lane, or Place in which the Property in respect of which the Juror has been rated or is qualified is situate.

"JURORS BOOK" of the County of *or* County of the City of *or* County of the Town of [*as the Case may be*] for the Year 18 .

Number in this Book.	Christian Name and Surname in alphabetical Order of Surnames.	Place of Abode or Residence.	Annual Value of Freehold, or Amount rated, yearly Value.	Lands or House, or Houses, &c. Rated Occupier or Freeholder.	Name of the Townland, Denomination, or Place, Street, Lane, or Place in which the Property in respect of which the Jurors have been rated on and qualified is situate.	Service of Juror, and Date thereof.	Certificate and Date of same when given.

SECOND SCHEDULE—*continued.*

B.

"The GENERAL LIST of SPECIAL JURORS" of the County of *or* County of the City of *or* County of the Town of [*as the Case may be*] for the Year

Number in this List.	Christian Name and Surname in alphabetical Order of Surnames.	Place of Abode or Residence.	Annual Value of Freehold, or Amount rated, yearly Value.	Nature of Qualification whether Lands, or House, or Houses, &c. Rated Occupier or Freeholder.	Name of the Townland, Denomination, or Place, Street, Lane, or Place in which the Property in respect of which the Juror has been rated is situate.

"The SPECIAL JURORS BOOK" of the County of *or* County of the City of *or* County of the Town of [*as the Case may be*] for the Year

Number in this Book.	Christian Name and Surname in alphabetical Order of Surnames.	Place of Abode or Residence.	Annual Value of Freehold, or Amount rated, yearly Value.	Nature of Qualification, whether Lands, or House, or Houses, &c. Rated Occupier or Freeholder.	Name of the Townland, Denomination, or Place, Street, Lane, or Place in which the Property in respect of which the Juror has been rated is situate.

(Ireland.) (No. 2.)

A

BILL

To amend the Laws relating to Jurors and Juries in Ireland.

(*Prepared and brought in by Mr. Whiteside and Mr. Napier.*)

Ordered, by the House of Commons, *to be Printed,* 18 *December* 1854.

[Bill 6.]

Under 4 *oz.*

Justices of the Peace Qualification Bill.

ARRANGEMENT OF CLAUSES.

Preamble.
Division of Act.

PART I.

PRELIMINARY PROVISIONS.

Short Title of Act; Sect. 1.
Commencement of Act; 2.
Limits of Act; 3.
Interpretation; 4.

PART II.

REPEAL OF FORMER STATUTES.

Repeal of Statutes in Schedule; 5.
Savings as to Matters done, &c. under repealed Statutes; 6.

PART III.

QUALIFICATION BY PROPERTY.

Qualification by Interest in Land; Interest in Personal Property; Income from Office or Pension; Part in Real and Part in Personal Property; 7.

Declaration of Qualification by Property.

Justice of the Peace shall make Declaration; Form of Declaration; 8.
Declaration to be kept, and Copies to be Evidence; 9.
False Declaration a Misdemeanor; 10.

Penalty for acting before Declaration made or without Qualification.

Justices acting without fulfilling Conditions of Act to forfeit 50*l.*; 11.

Recovery of Penalty.

Penalty recoverable in County Court; 12.
Proof of Qualification to lie on Defendant; 13.
If Defendant rely upon a Qualification not in his Declaration he must give Notice; Plaintiff may elect to proceed no farther; 14.
Property not mentioned in Declaration or Notice not to be allowed; 15.
How far Qualification shall be deemed deteriorated in Value by a joint Liability to an Incumbrance; 16.

If Plaintiff unsuccessful in Suit to pay Costs on Scale of 5 & 6 Vict. c. 97. sec. 2.; 17.
One Penalty only to be recovered; 18.
Subsequent Suits to be stayed; 19.
Limitation of Actions; 20.

PART IV.

QUALIFICATION BY DEGREE.

Qualification by Degree; 21.

PART V.

QUALIFICATION BY OFFICE.

Qualification by Office; 22.

PART VI.

SPECIAL DISQUALIFICATION.

Attorneys, &c. shall not be County Justices; 23.

PART VII.

LOCAL EXCEPTION.

Act not to extend to particular Jurisdictions; 24.

SCHEDULE.

A

B I L L

TO

Amend the Laws relating to the Qualification of Justices of the Peace.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS it is expedient to amend the Laws relating to the Qualification of Justices of the Peace: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament asssembled, and by the Authority of the same, as follows: Preamble.

This Act is divided into Seven Parts, with a Schedule thereunto annexed:—

The First Part consists of Preliminary Provisions.
The Second Part effects the Repeal of Former Statutes.
The Third Part relates to Qualification by Property.
The Fourth Part relates to Qualification by Degree.
The Fifth Part relates to Qualification by Office.
The Sixth Part relates to Special Disqualification.
The Seventh Part relates to Local Exceptions.

Part I.

Preliminary Provisions.

Part I.
Preliminary Provisions.

I. This Act may be cited for all Purposes as "The Justices of the Peace Qualification Act, 1855." Short Title of Act.

PART I.

Commencement of Act.

II. This Act shall come into operation on the *First Day of January One thousand eight hundred and fifty-six.*

Limits of Act.

III. This Act shall extend only to England and Wales.

Interpretation.

IV. In interpreting this Act, the Words "County, Riding, or Division" shall not include or extend to a City or Town which is a County of itself.

PART II.

REPEAL.

PART II.

REPEAL OF FORMER STATUTES.

Repeal of Statutes in Schedule.

V. The several Acts and Parts of Acts designated in the Schedule hereunto annexed are hereby repealed.

Saving as to Matters done, &c. under repealed Statutes.

VI. The preceding Repeal shall not extend to invalidate the Operation of the repealed Acts upon Matters done, Qualifications sworn, Rights vested, Offences committed, or Penalties incurred at the Time of the Repeal, but as to all such Matters the repealed Acts shall continue in force as if this Act had not been passed.

PART III.

QUALIFICATION.

PART III.

QUALIFICATION BY PROPERTY.

VII. No Person shall be capable of being a Justice of the Peace, or of acting as such, for any County, Riding, or Division, unless he be possessed of One of the following Qualifications; (that is to say,)

Qualification by Interest in Land.

1. That he be seised or entitled, for his own Use and Benefit, of or to an Estate, legal or equitable, in Lands within England or Wales, or in the Rents and Profits of such Lands, which Estate shall not be less than for the Life of some Person then living, or for a Term of Years, either absolute, or determinable on the Life some Person then living: and that such Estate be of the clear yearly Value of not less than *One hundred Pounds* over and above all Incumbrances affecting the same:

Interest in Personal Property.

2. That he be possessed or entitled, for his own Use and Benefit, at Law or in Equity, either in perpetuity or for the Life of some Person then living, or for a Term of Years, either absolute, or determinable on the Life of some Person then living, of or to Personal Estates or Effects within England or Wales, or the Interest, Dividends, or annual Proceeds of Personal Estate or Effects: and that such Personal Estate or Effects, Interest, Dividends, or annual Proceeds actually produce the clear yearly Income of not less than *Three hundred Pounds*, over and above all Incumbrances affecting the same:

Income from Office or Pension.

3. That he be possessed, for his own Use and Benefit, of a clear yearly Income of not less than *Three hundred Pounds* derived from

from an Office or Employment held under the Crown or under some Department of the Government, for Life, or during good Behaviour, or during Pleasure, or derived from a Pension granted in respect of the previous Exercise of such an Office or Employment:

Part in real and part in personal Property.

4. That he be possessed of more than One of the several Kinds of Property herein-before mentioned, which, although they be singly of insufficient yearly Value to create a Qualification under this Act, amount in the aggregate to the clear yearly Value of *Three hundred Pounds*, over and above all Incumbrances affecting the same.

Declaration of Qualification by Property.

Declaration.

Justice of the Peace shall make Declaration.

VIII. No Person shall act as a Justice of the Peace for any County, Riding, or Division until he has made and subscribed, at some General or Quarter Sessions of the Peace for such County, Riding, or Division, the Declaration following; that is to say,

Form of Declaration.

'I A.B. do solemnly and sincerely declare, That I am, to the best 'of my Knowledge and Belief, duly qualified to act as a Justice 'of the Peace for the County [or Riding or Division] of 'within the true Intent and Meaning of "The Justices of the Peace 'Qualification Act, 1855," and that my Qualification arises out of '[here let the Party state the Nature of his Qualification, as the 'Case may be. If it arise, either wholly or partially, out of Lands, 'let him state the Parish, Township, or Precinct, and also the County 'in which such Lands are situate; but if the Qualification consists, 'either wholly or partially, of Rent, it is sufficient to specify so much 'of the Lands out of which the Rent issues as is of sufficient Value 'to answer such Rent. Let him state also the Estate in such Lands, 'or in the Rents or Profits thereof, to which he is entitled].

'[If the Qualification arise, either wholly or partially, out of Personal Estate or Effects, let him state of what Nature such Personal 'Estate and Effects are, and where situate, what Interest he has 'therein, and in what Securities and in whose Name the same are 'vested.]

'[But if the Qualification consist of an Office, Benefice, or Ecclesiastical Preferment, it shall be sufficient (notwithstanding that the 'said Office, Benefice, or Ecclesiastical Preferment may be generally 'included within the Meaning of the Word "Land" throughout this 'Act) to describe the same by its usual Name.]'

Declaration to be kept, and Copies to be Evidence.

IX. Every such Declaration shall be kept by the Clerk of the Peace among the Records of the Sessions whereat it was made and subscribed, and he shall supply an attested Copy of such Declaration to every Person demanding the same, and tendering the Sum of Two Shillings therefor; and such attested Copy shall, upon its mere Pro-

PART III.

duction, be admitted in Evidence in any Court of Justice or before any Person having by Law or by Consent of Parties Authority to receive and examine Evidence.

False Declaration a Misdemeanor.

X. Any Person who shall make and subscribe any such Declaration as aforesaid, knowing the same to be untrue in any material Particular, shall be guilty of a Misdemeanor.

Penalty.

Penalty for acting before Declaration made or without Qualification.

Justices acting without fulfilling Conditions of Act to forfeit 50*l.*

XI. Any Person who shall act as a Justice of the Peace for any County, Riding, or Division, without having made and subscribed the said Declaration as aforesaid, or without being qualified according to this Act, shall forfeit the Sum of *Fifty Pounds*.

Recovery of Penalty.

Recovery of Penalty.

Penalty recoverable in County Court.

XII. The Penalty imposed by this Act shall be recoverable, with Costs of Suit, in any County Court within the District whereof the Offender may reside, at the Suit of any Person who will sue for the same; and *one Moiety* of the said Penalty shall be paid to the Treasurer of the County Court wherein the same has been recovered, and be by him paid to the Treasurer for the County, Riding, or Division within which the Offence was committed, to be applied in aid of the County Rates; and the *other Moiety*, together with all Costs of Suit, shall be for the sole Use of the Person who sued for the said Penalty.

Proof of Qualification to lie on Defendant.

XIII. In every such Suit the Proof of his Qualification shall lie upon the Person against whom the Suit is brought.

If Defendant rely upon a Qualification not in his Declaration, he must give Notice.

XIV. If the Defendant in any such Suit shall intend to insist, either wholly or in part, upon any Qualification not contained in his Declaration, he shall, within *Seven* Days after receiving Process in such Suit, or within *Seven* Days before the Day appointed for the Hearing thereof, (whichever Limitation of Time may afford the Defendant the longer Period,) deliver to the Plaintiff in such Suit a Notice in Writing, specifying such Qualification, with the same Certainty as is by this Act required in a Declaration of Qualification; and if the Plaintiff shall think fit thereupon not to proceed any further, he may, within *Two* Days of the Day appointed for the Hearing, deliver to the Defendant a Notice that he will proceed no further in such Suit, and the Suit shall then abate.

Plaintiff may elect to proceed no farther.

Property not mentioned in Declaration or Notice not to be allowed.

XV. Upon the Hearing of any such Suit no Qualification not contained in the Declaration or Notice shall be allowed to be proved by the Defendant.

XVI. Where

PART III.

How far Qualification shall be deemed deteriorated in Value by a joint Liability to an Incumbrance.

XVI. Where Property designated in a Declaration or Notice is chargeable with an Incumbrance jointly with other Property belonging to the same Person, such Property shall for the Purposes of this Act be considered to be deteriorated in Value by the Existence of such Incumbrance only to the Extent to which the other Property jointly charged therewith is insufficient to satisfy the same.

If Plaintiff unsuccessful in Suit, to pay Costs on Scale of 5 & 6 Vict. c. 97. sec. 2.

XVII. In case the Plaintiff in any such Suit shall be nonsuit, or Judgment be given against him, the Person against whom such Suit shall have been brought shall receive from such Plaintiff such full and reasonable Indemnity, as to all Costs, Charges, and Expenses incurred in and about such Suit, as shall be taxed by the proper Officer in that Behalf, subject to be reviewed in like Manner and by the same Authority as any other Taxation of Costs by such Officer.

One Penalty only to be recovered.

XVIII. Not more than One Penalty shall be recovered from the same Person under this Act in respect of any Number of Offences against this Act committed before the Commencement of a Suit in which a Penalty shall be recovered, and before the Defendant in such Suit had received Notice of the Commencement thereof.

Subsequent Suits to be stayed.

XIX. Whenever any Suit shall have been commenced for the Recovery of the Penalty mentioned in this Act, and a subsequent Suit shall be commenced in respect of Acts done anterior to the Commencement of the First Suit, the Judge of the County Court in which such subsequent Suit has been brought shall, upon being satisfied that the First Suit is being prosecuted without Fraud or Delay, stay Proceedings from Time to Time in the subsequent Suit until the First Suit has been determined, or until the Plaintiff in the First Suit has been guilty of unnecessary Delay; and after Judgment has been recovered in the First Suit, and has been satisfied, the subsequent Suit shall be stayed absolutely.

Limitation of Actions.

XX. Every Suit for a Penalty under this Act shall be commenced within *Six* Months after the Offence.

PART IV.

QUALIFICATION BY DEGREE.

PART IV.

QUALIFICATION BY DEGREE.

Qualification by Degree.

XXI. This Act shall not extend to, and no Qualification by Estate shall be required of, Persons of the following Degrees:

1. Peers or Lords of Parliament:
2. Members of Her Majesty's Most Honourable Privy Council:
3. Justices of either Bench, and Barons of the Court of Exchequer:
4. Eldest Sons of Peers or Lords of Parliament:
5. Eldest Sons of Persons capable of being elected a Member of the House of Commons for any County, Riding, or Division.

Part V.

Qualification by Office.

Part V.

Qualification by Office.

Qualification by Office.

XXII. This Act shall not extend to and no Qualification by Estate shall be required of Persons holding the following Offices, and acting as Justices of the Peace within the Limits herein-after mentioned:

1. Officers of the Board of Green Cloth acting within the Verge of Her Majesty's Palaces:
2. Heads of Colleges or Halls within the University of Oxford, or Vice-Chancellor of that University, or Mayor of the City of Oxford, acting within the Counties of Berks and Oxford:
3. Heads of Colleges or Halls within the University of Cambridge, or Vice-Chancellor of that University, or Mayor of the Town of Cambridge, acting as Justices of the Peace within the County of Cambridge:
4. Commissioners or Principal Officers of the Navy, Under Secretaries in the Offices of the Principal Secretaries of State, and the Secretary of Chelsea College, acting within those Counties or Places where these Officers have usually been Justices of the Peace:
5. Judges of the County Court acting for any County, Riding, or Division for which he is appointed Judge of the County Court.

Part VI.

Special Disqualification.

Part VI.

Special Disqualification.

Attorneys, &c. shall not be County Justices.

XXIII. No Attorney, Solicitor, or Proctor in any Court shall be capable of being a Justice of the Peace for any County, Riding, or Division during such Time as he shall continue to practise as an Attorney, Solicitor, or Proctor.

Part VII.

Local Exception.

Part VII.

Local Exception.

Act not to extend to particular Jurisdictions.

XXIV. This Act shall not extend to any City, Town, Cinque Port, or Liberty having Justices of the Peace within their respective Limits and Precincts, by Charter, Commission, or otherwise, nor to any Persons acting as Justices of the Peace within any such City, Town, Cinque Port, or Liberty.

SCHE-

SCHEDULE to which this Act refers.

Act.	Title.	How much repealed.
13 Rich. 2. Stat. 1. Cap. 7.	What Sort of Persons shall be Justices of Peace, and what their Charge is to be.	The whole.
18 Hen. 6. Cap. 11. -	Of what yearly Value in Lands a Justice of Peace ought to be.	The whole.
5 Geo. 2. Cap. 18. -	An Act for the further Qualification of Justices of the Peace.	The whole.
18 Geo. 2. Cap. 20. -	An Act to amend and render more effectual an Act passed in the Fifth Year of His present Majesty's Reign, entitled "An Act "for the further Qualification of "Justices of the Peace."	The whole.
6 & 7 Vict. Cap. 73.	An Act for consolidating and amending several of the Laws relating to Attorneys and Solicitors practising in England and Wales.	Section Thirty-three.
9 & 10 Vict. Cap. 95.	An Act for the more easy Recovery of Small Debts and Demands in England.	Section Twenty-one.

Qualification.

A

BILL

To amend the Laws relating to the Qualification of Justices of the Peace.

(*Prepared and brought in by Mr. Colvile, Viscount Emlyn, and Mr. Ker Seymour.*)

Ordered, by The House of Commons, *to be Printed,* 15 *May* 1855.

[Bill 125.]

Under 2 *oz.*

Justices of the Peace Qualification Bill.

ARRANGEMENT OF CLAUSES.

Preamble.
Short Title of Act; Sect. 1.
Commencement of Act; 2.
Limits of Act; 3.
Interpretation; 4.
Repeal of Statutes in Schedule; 5.
Savings as to Matters done, &c. under repealed Statutes; 6.
Qualification by Interest in Land; Interest in Personal Property; Income from Office or Pension; Part in Real and Part in Personal Property; 7.
Justice of the Peace shall make Declaration; Form of Declaration; 8.
Declaration to be kept, and Copies to be Evidence; 9.
False Declaration a Misdemeanor; 10.
Justices acting without fulfilling Conditions of Act to forfeit 50*l.*; 11.
Penalty recoverable in County Court; 12.
Proof of Qualification to lie on Defendant; 13.
If Defendant rely upon a Qualification not in his Declaration he must give Notice; Plaintiff may elect to proceed no farther; 14.
Property not mentioned in Declaration or Notice not to be allowed; 15.
How far Qualification shall be deemed deteriorated in Value by a joint Liability to an Incumbrance; 16.
If Plaintiff unsuccessful in Suit to pay Costs on Scale of 5 & 6 Vict. c. 97. sec. 2.; 17.
One Penalty only to be recovered; 18.
Subsequent Suits to be stayed; 19.
Limitation of Actions; 20.
Qualification by Degree; 21.
Qualification by Office; 22.
Attorneys, &c. shall not be County Justices; 23.
Act not to extend to particular Jurisdictions; 24.
SCHEDULE.

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the Laws relating to the Qualification of Justices of the Peace.

WHEREAS it is expedient to amend the Laws relating to the Qualification of Justices of the Peace: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament asssembled, and by the Authority of the same, as follows: Preamble.

I. This Act may be cited for all Purposes as "The Justices of the Peace Qualification Act, 1855." Short Title of Act.

II. This Act shall come into operation on the First Day of January One thousand eight hundred and fifty-six. Commencement of Act.

III. This Act shall extend only to England and Wales. Limits of Act.

IV. In interpreting this Act, the Words "County, Riding, or Division" shall not include or extend to a City or Town which is a County of itself. Interpretation.

V. The several Acts and Parts of Acts designated in the Schedule hereunto annexed are hereby repealed. Repeal of Statutes in Schedule.

Saving as to Matters done, &c. under repealed Statutes.

VI. The preceding Repeal shall not extend to invalidate the Operation of the repealed Acts upon Matters done, Qualifications sworn, Rights vested, Offences committed, or Penalties incurred at the Time of the Repeal, but as to all such Matters the repealed Acts shall continue in force as if this Act had not been passed.

VII. No Person shall be capable of being a Justice of the Peace, or of acting as such, for any County, Riding, or Division, unless he be possessed of One of the following Qualifications; (that is to say,)

Qualification by Interest in Land.

1. That he be seised or entitled, for his own Use and Benefit, of or to an Estate, legal or equitable, in Lands within England or Wales, or in the Rents and Profits of such Lands, which Estate shall not be less than for the Life of some Person then living, or for a Term of Years, either absolute, or determinable on the Life some Person then living, or the Property of his Wife with the Remainder to her Husband: and that such Estate be of the clear yearly Value of not less than One hundred Pounds over and above all Incumbrances affecting the same:

Interest in Personal Property.

2. That he be possessed or entitled, for his own Use and Benefit, at Law or in Equity, either in perpetuity or for the Life of some Person then living, or for a Term of Years, either absolute, or determinable on the Life of some Person then living, of or to Personal Estates or Effects within England or Wales, or the Interest, Dividends, or annual Proceeds of Personal Estate or Effects: and that such Personal Estate or Effects, Interest, Dividends, or annual Proceeds actually produce the clear yearly Income of not less than Three hundred Pounds, over and above all Incumbrances affecting the same:

Income from Office or Pension.

3. That he be possessed, for his own Use and Benefit, of a clear yearly Income of not less than Three hundred Pounds derived from an Office or Employment held under the Crown or under some Department of the Government, for Life, or during good Behaviour, or during Pleasure, or derived from a Pension granted in respect of the previous Exercise of such an Office or Employment, or in respect of any Pension granted for Services of a Civil or Military Nature by the Honourable East India Company:

Part in real and part in personal Property.

4. That he be possessed of more than One of the several Kinds of Property herein-before mentioned, which, although they be singly of insufficient yearly Value to create a Qualification under this Act, amount in the aggregate to the clear yearly Value of Three hundred Pounds, over and above all Incumbrances affecting the same.

VIII. No

VIII. No Person shall act as a Justice of the Peace for any County, Riding, or Division until he has made and subscribed, at some General or Quarter Sessions of the Peace for such County, Riding, or Division, the Declaration following; that is to say,

Justice of the Peace shall make Declaration.

'I A.B. do solemnly and sincerely declare, That I am, to the best
' of my Knowledge and Belief, duly qualified to act as a Justice
' of the Peace for the County [or Riding or Division] of
' within the true Intent and Meaning of "The Justices of the Peace
' Qualification Act, 1855," and that my Qualification arises out of
' [here let the Party state the Nature of his Qualification, as the
' Case may be. If it arise, either wholly or partially, out of Lands,
' let him state the Parish, Township, or Precinct, and also the County
' in which such Lands are situate; but if the Qualification consists,
' either wholly or partially, of Rent, it is sufficient to specify so much
' of the Lands out of which the Rent issues as is of sufficient Value
' to answer such Rent. Let him state also the Estate in such Lands,
' or in the Rents or Profits thereof, to which he is entitled].

' [If the Qualification arise, either wholly or partially, out of Personal Estate or Effects, let him state of what Nature such Personal
' Estate and Effects are, and where situate, what Interest he has
' therein, and in what Securities and in whose Name the same are
' vested.]

' [But if the Qualification consist of an Office, Benefice, or Ecclesiastical Preferment, it shall be sufficient (notwithstanding that the
' said Office, Benefice, or Ecclesiastical Preferment may be generally
' included within the Meaning of the Word "Land" throughout this
' Act) to describe the same by its usual Name.]'

Form of Declaration.

IX. Every such Declaration shall be kept by the Clerk of the Peace among the Records of the Sessions whereat it was made and subscribed, and he shall supply an attested Copy of such Declaration to every Person demanding the same, and tendering the Sum of Two Shillings therefor; and such attested Copy shall, upon its mere Production, be admitted in Evidence in any Court of Justice or before any Person having by Law or by Consent of Parties Authority to receive and examine Evidence.

Declaration to be kept, and Copies to be Evidence.

X. Any Person who shall make and subscribe any such Declaration as aforesaid, knowing the same to be untrue in any material Particular, shall be guilty of a Misdemeanor.

False Declaration a Misdemeanor.

XI. Any Person who shall act as a Justice of the Peace for any County, Riding, or Division, without having made and subscribed the said Declaration as aforesaid, or without being qualified according to this Act, shall forfeit the Sum of Fifty Pounds.

Justices acting without fulfilling Conditions of Act to forfeit 50*l.*

Penalty recoverable in County Court.

XII. The Penalty imposed by this Act shall be recoverable, with Costs of Suit, in any County Court within the District wherein the Offender may reside, at the Suit of any Person who will sue for the same; and one Moiety of the said Penalty shall be paid to the Treasurer of the County Court wherein the same has been recovered for Her Majesty's Use, and be accounted for by him to the Commissioners of Her Majesty's Treasury, to be paid over by the Treasurer of such County Court in such Manner as they may direct; and the other Moiety, together with all Costs of Suit, shall be for the sole Use of the Person who sued for the said Penalty.

Qualification to lie on Defendant.

XIII. In every such Suit the Proof of his Qualification shall lie upon the Person against whom the Suit is brought.

If Defendant rely upon a Qualification not in his Declaration, he must give Notice.

XIV. If the Defendant in any such Suit shall intend to insist, either wholly or in part, upon any Qualification not contained in his Declaration, he shall, within Seven Days after receiving Process in such Suit, or within Seven Days before the Day appointed for the Hearing thereof, (whichever Limitation of Time may afford the Defendant the longer Period,) deliver to the Plaintiff in such Suit a Notice in Writing, specifying such Qualification, with the same Certainty as is by this Act required in a Declaration of Qualification; and if the Plaintiff shall think fit thereupon not to proceed any further, he may, within Two Days of the Day appointed for the Hearing, deliver to the Defendant a Notice that he will proceed no further in such Suit, and the Suit shall then abate.

Plaintiff may elect to proceed no farther.

Property not mentioned in Declaration or Notice not to be allowed.

XV. Upon the Hearing of any such Suit no Qualification not contained in the Declaration or Notice shall be allowed to be proved by the Defendant.

How far Qualification shall be deemed deteriorated in Value by a joint Liability to an Incumbrance.

XVI. Where Property designated in a Declaration or Notice is chargeable with an Incumbrance jointly with other Property belonging to the same Person, such Property shall for the Purposes of this Act be considered to be deteriorated in Value by the Existence of such Incumbrance only to the Extent to which the other Property jointly charged therewith is insufficient to satisfy the same.

If Plaintiff unsuccessful in Suit, to pay Costs on Scale of 5 & 6 Vict. c. 97. sec 2.

XVII. In case the Plaintiff in any such Suit shall be nonsuit, or Judgment be given against him, the Person against whom such Suit shall have been brought shall receive from such Plaintiff such full and reasonable Indemnity, as to all Costs, Charges, and Expenses incurred in and about such Suit, as shall be taxed by the proper Officer in that Behalf, subject to be reviewed in like Manner and by the same Authority as any other Taxation of Costs by such Officer.

XVIII. Not

XVIII. Not more than One Penalty shall be recovered from the same Person under this Act in respect of any Number of Offences against this Act committed before the Commencement of a Suit in which a Penalty shall be recovered, and before the Defendant in such Suit had received Notice of the Commencement thereof. One Penalty only to be recovered.

XIX. Whenever any Suit shall have been commenced for the Recovery of the Penalty mentioned in this Act, and a subsequent Suit shall be commenced in respect of Acts done anterior to the Commencement of the First Suit, the Judge of the County Court in which such subsequent Suit has been brought shall, upon being satisfied that the First Suit is being prosecuted without Fraud or Delay, stay Proceedings from Time to Time in the subsequent Suit until the First Suit has been determined, or until the Plaintiff in the First Suit has been guilty of unnecessary Delay; and after Judgment has been recovered in the First Suit, and has been satisfied, the subsequent Suit shall be stayed absolutely. Subsequent Suits to be stayed.

XX. Every Suit for a Penalty under this Act shall be commenced within Six Months after the Offence. Limitation of Actions.

XXI. This Act shall not extend to, and no Qualification by Estate shall be required of, Persons of the following Degrees: Qualification by Degree.

1. Peers or Lords of Parliament:
2. Members of Her Majesty's Most Honourable Privy Council:
3. Justices of either Bench, and Barons of the Court of Exchequer:
4. Eldest Sons of Peers or Lords of Parliament:
5. Eldest Sons or Heirs Apparent of Persons qualified to serve as Members of the House of Commons for any County, Riding, or Division.

XXII. This Act shall not extend, to and no Qualification by Estate shall be required of, Persons holding the following Offices, and acting as Justices of the Peace within the Limits herein-after mentioned: Qualification by Office.

1. Officers of the Board of Green Cloth acting within the Verge of Her Majesty's Palaces;
2. Heads of Colleges or Halls within the University of Oxford, or Vice-Chancellor of that University, or Mayor of the City of Oxford, acting within the Counties of Berks and Oxford:
3. Heads of Colleges or Halls within the University of Cambridge, or Vice-Chancellor of that University, or Mayor of the Town of Cambridge, acting as Justices of the Peace within the County of Cambridge:
4. Commissioners or Principal Officers of the Navy, Under Secretaries in the Offices of the Principal Secretaries of State,

and the Secretary of Chelsea College, acting within those Counties or Places where these Officers have usually been Justices of the Peace:

5. Judges of the County Court acting for any County, Riding, or Division for which he is appointed Judge of the County Court.

Attorneys, &c. shall not be County Justices.

XXIII. No Attorney, Solicitor, or Proctor in any Court shall be capable of being a Justice of the Peace for any County, Riding, or Division during such Time as he shall continue to practise as an Attorney, Solicitor, or Proctor.

Act not to extend to particular Jurisdictions.

XXIV. This Act shall not extend to any City, Town, Cinque Port, or Liberty having Justices of the Peace within their respective Limits and Precincts, by Charter, Commission, or otherwise, nor to any Persons acting as Justices of the Peace within any such City, Town, Cinque Port, or Liberty.

SCHE-

SCHEDULE to which this Act refers.

Act.	Title.	How much repealed.
13 Rich. 2. Stat. 1. Cap. 7.	What Sort of Persons shall be Justices of Peace, and what their Charge is to be.	The whole.
18 Hen. 6. Cap. 11. -	Of what yearly Value in Lands a Justice of Peace ought to be.	The whole.
5 Geo. 2. Cap. 18. -	An Act for the further Qualification of Justices of the Peace.	The whole.
18 Geo. 2. Cap. 20. -	An Act to amend and render more effectual an Act passed in the Fifth Year of His present Majesty's Reign, entitled "An Act "for the further Qualification of "Justices of the Peace."	The whole.
6 & 7 Vict. Cap. 73.	An Act for consolidating and amending several of the Laws relating to Attorneys and Solicitors practising in England and Wales.	Section Thirty-three.
9 & 10 Vict. Cap. 95.	An Act for the more easy Recovery of Small Debts and Demands in England.	Section Twenty-one.

Justices of the Peace Qualification.

A

BILL

[AS AMENDED IN COMMITTEE.]

To amend the Laws relating to the Qualification of Justices of the Peace.

(Prepared and brought in by Mr. Colvile, Viscount Emlyn, and Mr. Ker Seymour.)

Ordered, by The House of Commons, *to be Printed,* 20 *June* 1855.

[Bill 180.]

Under 2 oz.

17 *April* 1855. 18 Vict.

A

BILL

TO

Facilitate the Formation of Divisions for which Meetings of Commissioners of Land or Assessed Taxes may be held in Great Britain.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS in some Counties the Boundaries of the Hundreds, Laths, Wapentakes, Rapes, Wards, or other Divisions are uncertain, and inconvenient to the Inhabitants within the same, and it is desirable to give greater Facility for the Formation of Divisions for which Meetings of Commissioners of Land Tax may hereafter be held: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. At any Time or Times after the *Tenth Day of October* next following the passing of this Act, it shall be lawful for any *Five* or more Commissioners of Land Tax for any County, Riding, or Division of a County in Great Britain to transmit to One of the Secretaries of Her Majesty's Treasury a Statement in Writing, signed by such Commissioners, of the Parishes, Tithings, Townships, and Places within the same, or in any adjoining County or Counties, Riding or Ridings, or other Division or Divisions of a County, which, in the Opinion Commissioners of Land Tax to forward to Secretary of Treasury a Statement of the Parishes and Places, &c., that would form

a proper Division for which Meetings of Commissioners should be held.

Opinion of such Commissioners, would form together a convenient and a proper Division within and for which Meetings of Commissioners of Land Tax should thenceforward be held, or of any Parishes, Tithings, Townships, or Places which, in the Opinion of such Commissioners, ought to be annexed for the said Purposes to any other Division in the said County, or an adjoining County, Riding or Division of a County, than those or that of which at the Time of making such Statement they form Part; and every such Statement shall, among other things, set forth within what existing Division or Divisions, Limit or Limits, Counties, Ridings or Divisions of a County, the several Parishes, Townships, and Places enumerated in the same are situated or deemed to be, and also whether One or more and what existing Divisions or Limits will be altered by such proposed new Divisions, or by the Change of any Place or Places from One Division to another, and also the Name of any City, Town, or Village in any proposed new Division which would be the most convenient Place for the said Commissioners to hold their Meetings, and also the Names of such Justices of the Peace and Commissioners of Land Tax as at the Date of such Statement are usually resident within the Boundaries of such proposed new Division.

Secretary of Treasury to publish a Copy of Statement in Newspapers, and also to lay said Statement before the Lords of the Treasury.

II. One of the said Secretaries of Her Majesty's Treasury shall and he is hereby required, upon the Receipt of such Statement, to cause to be published a Copy thereof for Two successive Weeks in One or more Newspapers usually published or circulated within the said County, Riding, or Division from which the aforesaid Statement is made, and also in One or more Newspapers usually published or circulated within any adjoining or other County in which are situated any Parishes, Tithings, Townships, or Places to be affected by such Alteration, and in which respectively the Advertisements of the County Business are usually inserted, and at the Foot of such Copy shall also cause Notice to be given that such Statement has been laid before the Commissioners of Her Majesty's Treasury, in pursuance of the Directions of this Act, and that the same will be taken into consideration by their Lordships after the Expiration of *Two* Months from the Date of the said Notice.

If Lords of the Treasury approve, an Order to be made by them for constituting a new Division.

III. When and so often as the Commissioners of Her Majesty's Treasury (to whom the Power and Authority as herein specified is given) shall adopt wholly or in part any such Statement so laid before them, and shall determine to change any Parish, Tithing, Township, or Place from One Division to another within the said County, or any adjoining County, Riding or Division of a County, or to constitute any new Division, either in the said County, or which may extend into other Counties or Ridings, within which Meetings of Commissioners

sioners of Land Tax shall thenceforward be holden, the said Commissioners of the Treasury shall thereupon make an Order for such Alteration, or for the constituting and defining such new Division, and in such last mentioned Order shall particularly enumerate the several Parishes, Tithings, Townships, and Places to be comprised within such new Division, and shall also specify the Division or Divisions within which respectively any Parishes, Tithings, Townships, and Places disannexed by such Order from any former Division, and not forming Part of such new Division, shall thenceforward be taken to be, and also shall affix to such new Division the Name of some Principal Town or Place within the same, and also shall, in either of such Orders, as the Case may be, particularly set down the Day from which such Order shall take effect; and One of the Secretaries of the Treasury shall forthwith cause to be published a Copy of such Order for *Three* successive Weeks in One or more Newspapers as aforesaid, and shall also transmit a printed Copy of such Order to every Justice of the Peace, Commissioner of Land Tax, and Assessor of Taxes for any Parish or Place within the Limits of such new or altered Division or Divisions.

No new Division to be constituted unless it extends over at least 50,000 Acres, nor unless there are Seven Commissioners of Land Tax residing within the same.

IV. It shall not be lawful for the said Commissioners of the Treasury to make any Order constituting any such new Division, unless the said new Division shall extend over an Area of not less than *Fifty thousand* Statute Acres, nor unless at the Time of making the said Order there are at the least *Seven* Commissioners of Land Tax including the Justices of the Peace residing within the Boundary Line proposed to be the Limits of any such new Division.

New Divisions to be deemed lawful Divisions for holding Meetings of Commissioners.

V. From and after the Day so specified in such Order, for the Term of *Ten* Years, and until further Order of the Commissioners of the Treasury after the Expiration of that Time, and subject to no Alteration or Revision during such Term, all Matters and Things relating to Taxes which by Law are now or hereafter may be required to be usually transacted or determined within the Division within which the same shall have arisen, or the Parties therein concerned inhabit or possess Land or Property, or exercise their Trade or Calling, and by or before Two or more Commissioners of Land Tax usually acting within the same, shall be transacted and determined, so far as the same shall arise within or concern the Inhabitants of such new or altered Division, or any of them, or the Persons having Land or Houses or any other Kind of Property, or exercising their Trade or Calling therein, within the Boundaries of such new or altered Division; and such new or altered Division shall thenceforward be, and be reputed and taken to be, for all Purposes relating to Taxes or Inland Revenue, and in the Construction of all Statutes now in force or hereafter to be

made, and containing no special Provision to the contrary, a lawful Division for the holding of Meetings of Commissioners of Land Tax or of Income and Property Tax; and if the said new or altered Division shall extend into more Counties or Ridings than One, each and every Commissioner for any One of the said Counties or Ridings usually resident within the said Division shall be to all Intents and Purposes a Commissioner of Land Tax throughout the whole of the of the said Division; and all Assessors and Collectors of Taxes, Churchwardens or other Officers, and all other Persons, shall and they are thenceforward required to give their Attendance to and upon such Commissioners at any of their Meetings within the same Division, as fully and effectually as by Law they had been bound to do within any Division reputed or taken before the passing of this Act to be a lawful and accustomed Division for the holding of Meetings of Commissioners of Land Tax for the Purposes aforesaid.

Commissioners may, with the Permission of the Treasury, hold their Meetings in any County of a City, County of a Town, Cinque Port, City, Town, or Liberty.

VI. It shall and may be lawful for the Commissioners of Land Tax or of Income and Property Tax acting for any County, Riding, or Division of a County, or any Two or more of them, to hold their Meetings in any City, County of a City, County of a Town, Cinque Port, Town, or Liberty situate within, surrounded by, or adjoining to any such County or Riding, any Law, Statute, Usage, or Custom to the contrary notwithstanding: Provided always, that before any such Meetings are held otherwise than within those Parts of any County, Riding, or Division of a County for which the said Commissioners are appointed to act, the Place of Meeting shall be certified to and approved of by the Commissioners of Her Majesty's Treasury, who shall thereupon signify to the said Commissioners, by Letter, their Approbation of the intended Place of Meeting.

Land and Assessed Taxes Divisions.

A

B I L L

To facilitate the Formation of Divisions for which Meetings of Commissioners of Land or Assessed Taxes may be held in Great Britain.

(Prepared and brought in by Mr. Frewen and Mr. Spooner.)

Ordered, by The House of Commons, *to be Printed*, 17 *April* 1855.

[Bill 80.]

Under 1 *oz.*

Leases and Sales of Settled Estates Bill.

ARRANGEMENT OF CLAUSES.

Definitions; Sect 1.
Court of Chancery empowered to authorize Leases of Settled Estates for any Purposes, subject to certain Restrictions; Sects. 2—6.
Mode in which the Court may authorize such Leases; namely, either by approving of particular Leases, or vesting general Powers in Trustees; Sect. 7.
What Evidence is to be produced to the Court on an Application to authorize Leases; Sect. 8.
How Leases are to be effected under the Direction of the Court; Sects. 9, 10.
Court may authorize Sales of Settled Estates, and of Timber; Sect. 11.
Land may be sold for Building, reserving a Fee-farm Rent; Sect. 12.
Minerals, &c. may be excepted from Sales, and Purchasers may be required to enter into Covenants; Sect. 13.
Court may authorize Dedication of Parts of Settled Estates for Roads, &c.; Sect. 14.
How Sales and Dedications are to be effected under the Direction of the Court; Sect. 15.
Applications for Exercise of this Act to be made by whom, and with what Consents; Sects. 16—19.
Notice of the Exercise of Powers conferred under this Act to be given where practicable; Sect. 20.
Court may appoint Trustees to receive and apply Monies arising from Sales; Sect. 21.
Trustees may apply Monies, in certain Cases, without Application to Court; Sect. 22.
Until Application, Money to be invested in Exchequer Bills, &c.; Sect. 23.
Parties may avail themselves of this Act, whether the Settlement contains Provisions for the like Purpose or not; Sect. 24.
Court may not authorize any Act that might not have been authorized by the Settlor; Sect. 25.
The Restrictions imposed on the Court by this Act to be directory only; Sect. 26.

Costs; Sect. 27.

Lord Chancellor may make Rules and Orders; Sects. 28, 29.

Power to Tenants for Life, &c. to grant Husbandry Leases for Fourteen Years; Sects. 30, 31.

Repeal of 32 Hen. 8. c. 28., except as to Ecclesiastical Leases; Sect. 32.

Provisions as to Infants, Lunatics, married Women, &c.; Sects. 33—36.

No Equity to compel any one to avail himself of this Act; Sect. 37.

Tenants for Life, &c. may exercise Powers notwithstanding Incumbrances; Sect. 38.

Exception as to Entails created by Act of Parliament; Sect. 39.

Saving Rights of Lords of Manors; Sect. 40.

Extent of Application of Act, and Time of Commencement; Sects. 41—43.

A

BILL

INTITULED

An Act to facilitate Leases and Sales of Settled Estates.

[Note.—*The Words printed in Red Ink are proposed to be inserted in Committee.*]

WHEREAS it is expedient that the Court of Chancery should have Power in certain Cases to authorize Leases and Sales of Settled Estates where it shall deem that such Leases or Sales would be proper for the beneficial Administration of the Estate, and consistent with a due Regard for the Interests of all Parties entitled under the Settlement; and it is also expedient that Tenants for Life of Land in possession should have Power to grant Agricultural Leases thereof, at Rackrent, for a reasonable Period, to be binding on their Successors: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. The Word "Settlement," as used in this Act, shall signify any Act of Parliament, Deed, Agreement, Copy of Court Roll, Will, or other Instrument, or any Number of such Instruments, under or by virtue of which any Hereditaments of any Tenure stand limited to or in trust for any Persons, by way of Succession, including any such Instruments affecting the Estates of any One or more of such Persons exclusively; and the Term "Settled Estates" as used in this Act shall signify all Hereditaments of any Tenure which Interpretation.

are the Subject of a Settlement: and for the Purposes of this Act a Tenant in Tail after Possibility of Issue extinct shall be deemed to be a Tenant for Life.

Court of Chancery may authorize Leases of Settled Estates, subject to certain Conditions.

II. It shall be lawful for the Court of Chancery in England, so far as relates to Estates in England, and for the Court of Chancery in Ireland, so far as relates to Estates in Ireland, subject to the Provisions and Restrictions in this Act contained, to authorize Leases of any Settled Estates, or of any Rights or Privileges over or affecting any Settled Estates, for any Purpose whatsoever, whether involving Waste or not, provided the following Conditions be observed:

First, every such Lease shall be made to take effect in possession, and shall be for a Term of Years not exceeding for an Agricultural or Occupation Lease Twenty-one Years, for a Mining Lease, or a Lease of Water, Water Mills, Wayleaves, Waterleaves, or other Rights or Easements, Forty Years, and for a Building Lease Ninety-nine Years, except only in Cases where the Court shall be satisfied that it is the usual Custom of the District and beneficial to the Inheritance to grant Building Leases for longer Terms:

Secondly, on every such Lease shall be reserved the best Rent, or Reservation in the Nature of Rent, either uniform or not, that can be reasonably obtained, to be made payable half-yearly or oftener, without taking any Fine or other Benefit in the Nature of a Fine:

Thirdly, where the Lease is of any Earth, Coal, Stone, or Mineral, a certain Portion of the whole Rent or Payment reserved shall be from Time to Time set aside and invested as herein-after mentioned; namely, when and so long as the Person for the Time being entitled to the Receipt of such Rent is a Person who by reason of his Estate, or by virtue of any Declaration in the Settlement, is entitled to work such Earth, Coal, Stone, or Mineral for his own Benefit, One Fourth Part of such Rent, and otherwise Three Fourth Parts thereof; and in every such Lease sufficient Provision shall be made to insure such Application of the aforesaid Portion of the Rent, by the Appointment of Trustees, or otherwise, as the Court shall deem expedient:

Fourthly, no such Lease shall authorize the felling of any Trees, except so far as shall be necessary for the Purpose of clearing the Ground for any Buildings, Excavations, or other Works authorized by the Lease:

Fifthly, every such Lease shall be by Deed, and the Lessee shall execute a Counterpart thereof; and every such Lease shall contain a Condition for Re-entry on Nonpayment of the Rent within a Period of not less than Twenty-eight Days after it becomes due.

III. Subject

III. Subject and in addition to the Conditions herein-before mentioned, every such Lease shall contain such Covenants, Conditions, and Stipulations as the Court shall deem expedient with reference to the special Circumstances of the Demise. Leases may contain special Covenants.

IV. The Power to authorize Leases conferred by this Act shall extend to authorize Leases either of the whole or any Parts of the Settled Estates, and may be exercised from Time to Time. Parts of Settled Estates may be leased.

V. Any Leases granted under this Act may be surrendered, either for the Purpose of obtaining a Renewal of the same or not; and the Power to authorize Leases conferred by this Act shall extend to authorize new Leases of the whole or any Part of the Hereditaments comprised in any surrendered Lease. Leases may be surrendered and renewed.

VI. The Power to authorize Leases conferred by this Act shall extend to authorize preliminary Contracts to grant any such Leases; and any of the Terms of such Contracts may be varied in the Leases. The Power to authorize Leases may extend to preliminary Contracts.

VII. The Power to authorize Leases conferred by this Act may be exercised by the Court, either by approving of particular Leases or by ordering that general Powers of leasing, in conformity with the Provisions of this Act, shall be vested in Trustees in manner herein-after mentioned. Mode in which Leases may be authorized.

VIII. When Application is made to the Court, either to authorize a particular Lease, or to vest any general Powers of leasing in Trustees, the Court shall require the Applicant to produce such Evidence as it shall deem sufficient to enable it to ascertain the Nature, Value, and Circumstances of the Estate, and the Terms and Conditions on which Leases thereof ought to be authorized. What Evidence to be produced on an Application to authorize Leases.

IX. When a particular Lease or Contract for a Lease has been approved of by the Court, the Court shall direct what Person or Persons shall execute the same as Lessor; and the Lease or Contract executed by such Person or Persons shall take effect in all respects as if he or they was or were at the Time of the Execution thereof absolutely entitled to the whole Estate or Interest which is bound by the Settlement, and had immediately afterwards settled the same according to the Settlement; and so as to operate (if necessary) by way of Revocation and Appointment of the Use, or otherwise as the Court shall direct. After Approval of a Lease, Court to direct who shall be the Lessor.

Powers of leasing may be vested in Trustees.

X. Where the Court shall deem it expedient that any general Powers of leasing any Settled Estates conformably to this Act should be vested in Trustees, it may by Order vest any such Power accordingly, either in the existing Trustees of the Settlement or any other Persons; and such Powers, when exercised by such Trustees, shall take effect in all respects as if the Power so vested in them had been originally contained in the Settlement, and so as to operate (if necessary) by way of Revocation and Appointment of the Use or otherwise as the Court shall direct; and in every such Case the Court, if it shall think fit, may impose any Conditions as to Consents or otherwise on the Exercise of such Power, and the Court may also authorize the Insertion of Provisions for the Appointment of new Trustees from Time to Time for the Purpose of exercising such Powers of leasing as aforesaid.

Court may authorize Sales of Settled Estates, and of Timber.

XI. It shall be lawful for the Court of Chancery in England, so far as relates to Estates in England, and for the Court of Chancery in Ireland, so far as relates to Estates in Ireland, if it shall deem it consistent with a due Regard for the Interests of all Parties entitled under the Settlement, and subject to the Provisions and Restrictions in this Act contained, from Time to Time to authorize a Sale of the whole or any Parts of any Settled Estates, or of any Timber (not being ornamental Timber) growing on any Settled Estates, and every such Sale shall be conducted and confirmed in the same Manner as by the Rules and Practice of the Court for the Time being is or shall be required in the Sale of Lands sold under a Decree of the Court.

Land may be sold for Building, reserving a Fee-farm Rent.

XII. When any Land is sold for Building Purposes it shall be lawful for the Court, if it shall see fit, to allow the whole or any Part of the Consideration to be a Fee-farm Rent issuing out of such Land, which may be secured and settled in such Manner as the Court shall approve.

Minerals, &c. may be excepted from Sales.

XIII. On any Sale of Land any Earth, Coal, Stone, or Mineral may be excepted, and any Rights or Privileges may be reserved, and the Purchaser may be required to enter into any Covenants, or submit to any Restrictions, which the Court may deem advisable.

Court may authorize Dedication of Parts of Settled Estates for Roads, &c.

XIV. It shall be lawful for the Court of Chancery in England, so far as relates to Estates in England, and for the Court of Chancery in Ireland, so far as relates to Estates in Ireland, subject to the Provisions and Restrictions in this Act contained, from Time to Time to direct that any Part of any Settled Estates be laid out for Streets, Roads, or Paths, Drains or Watercourses, either to be dedicated to the Public or not; and the Court may direct that the Parts

Parts so laid out shall remain vested in the Trustees of the Settlement, or be conveyed to and vested in any other Trustees, upon such Trusts for securing the continued Appropriation thereof to the Purposes aforesaid in all respects, and with such Provisions for the Appointment of new Trustees when required, as by the Court shall be deemed advisable.

How Sales and Dedications are to be effected under the Direction of the Court.

XV. On every Sale or Dedication to be effected as herein-before mentioned the Court may direct what Person or Persons shall execute the Deed of Conveyance; and the Deed executed by such Person or Persons shall take effect as if the Settlement had contained a Power enabling such Person or Persons to effect such Sale or Dedication, and so as to operate (if necessary) by way of Revocation and Appointment of the Use, or otherwise as the Court shall direct.

Application by Petition to exercise Powers conferred by this Act.

XVI. Any Person entitled to the Possession or to the Receipt of the Rents and Profits of any Settled Estates for a Term of Years determinable on his Death, or for an Estate for Life or any greater Estate, may apply to the Court of Chancery, by Petition in a summary Way, to exercise the Powers conferred by this Act.

With whose Consent such Application to be made.

XVII. Subject to the Exception contained in the next Section, every Application to the Court must be made with the Concurrence or Consent of the following Parties; namely,

Where there is no Tenant in Tail under the Settlement in existence, of full Age, then the Parties to concur or consent shall be all the Persons in existence having any beneficial Estate or Interest under or by virtue of the Settlement, and also all Trustees having any Estate or Interest on behalf of any unborn Children;

And where there is a Tenant in Tail under the Settlement in existence, and of full Age, then the Parties to concur or consent shall be such Tenant in Tail and all Persons in existence having any beneficial Estate or Interest under or by virtue of the Settlement prior to the Estate of such Tenant in Tail, and all Trustees having any Estate or Interest on behalf of any unborn Children prior to the Estate of such Tenant in Tail.

Petition may be granted without Consent.

XVIII. Provided nevertheless, That it shall be lawful for the Court, if it shall think fit, to give effect to any Petition, subject to and so as not to affect the Rights, Estate, or Interest of any Person (not being a Tenant in Tail) whose Consent or Concurrence has been refused or cannot be obtained, or whose Rights, Estate, or Interest ought in the Opinion of the Court to be excepted.

Notice of Application to be served on all Trustees, &c.

XIX. Notice of any Application to the Court under this Act shall be served on all Trustees who are seised or possessed of any Estate in trust for any Person whose Consent or Concurrence to or in the Application is hereby required, and on any other Parties who in the Opinion of the Court ought to be so served, unless the Court shall think fit to dispense with such Notice.

Notice of the Exercise of Powers to be given by the Court.

XX. The Court shall direct that some sufficient Notice of any Exercise of any of the Powers conferred on it by this Act shall be placed on the Settlement or on any Copies thereof, or otherwise recorded in any way it may think proper, in all Cases where it shall appear to the Court to be practicable and expedient, for preventing Fraud or Mistake.

Court may appoint Trustees to receive and apply Monies arising from Sales.

XXI. All Money to be received on any Sale effected under the Authority of this Act, or to be set aside out of the Rent or Payments reserved on any Lease of Earth, Coal, Stone, or Minerals as aforesaid, may, if the Court shall think fit, be paid to any Trustees of whom it shall approve, or otherwise the same shall be paid into the Bank of England or Ireland, as the Case may be, to the Account of the Accountant General of the Court of Chancery, ex parte the Applicant in the Matter of this Act, and such Money shall be applied to some One or more of the following Purposes; (namely,)

The Purchase or Redemption of the Land Tax, or the Discharge of any Incumbrance affecting the Hereditaments in respect of which such Money was paid, or affecting any other Hereditaments settled therewith; or

The Purchase of other Hereditaments to be settled in the same Manner as the Hereditaments in respect of which the Money was paid; or,

The Payment to any Person becoming absolutely entitled.

Trustees may apply Monies, in certain Cases, without Application to Court.

XXII. The Application of the Money in manner aforesaid may, if the Court shall so direct, be made by the Trustees (if any) without any Application to the Court, or otherwise upon an Order of the Court upon the Petition of the Person who would be entitled to the Rents and Profits of the Land if the Money had been invested in the Purchase of Land.

Until Application, Money to be invested in Exchequer Bills, &c.

XXIII. Until the Money can be applied as aforesaid, the same shall, together with all Interest arising therefrom, be from Time to Time invested in Exchequer Bills; and if the Money arising from the ultimate Sale of such Exchequer Bills for the Purpose of any such Application as herein-before directed shall exceed the Amount of the Principal

Principal Money originally invested in Exchequer Bills, then and in such Case only the Excess shall be paid to the Person who would have been entitled to the Rents and Profits of the Land if the Money had been invested in the Purchase of Land, or to his personal Representatives.

Court may exercise Powers, although no Provision in Settlement.

XXIV. The Court shall be at liberty to exercise any of the Powers conferred on it by this Act, whether the Court shall have already exercised any of the Powers conferred by this Act in respect of the same Property, or not; but no such Powers shall be exercised if an express Declaration or manifest Intention that they shall not be exercised is contained in the Settlement, or may reasonably be inferred therefrom, or from extrinsic Circumstances or Evidence: Provided always, that the Circumstance of the Settlement containing Powers to effect similar Purposes shall not preclude the Court from exercising any of the Powers conferred by this Act, if it shall think that the Powers contained in the Settlement ought to be extended.

Court not to authorize any Act not authorized by the Settlor.

XXV. Nothing in this Act shall be construed to empower the Court to authorize any Lease, Sale, or other Act beyond the Extent to which in the Opinion of the Court the same might have been authorized in and by the Settlement by the Settlor or Settlors.

Lease or Sale under the Authority of the Court not to be invalidated.

XXVI. After the Completion of any Lease or Sale, or other Act, under the Authority of the Court, in professed pursuance of this Act, the same shall not be invalidated on the Ground that the Court was not hereby empowered to authorize the same; except that no such Lease, Sale, or other Act shall have any Effect against any Person whose Concurrence in or Consent to the Application ought to have been obtained, and was not obtained.

Costs.

XXVII. It shall be lawful for the Court, if it shall think fit, to order that all or any Costs or Expenses of all or any Parties of and incident to any Application under this Act shall be a Charge on the Hereditaments which are the Subject of the Application, or on any other Hereditaments included in the same Settlement, and subject to the same Limitations; and the Court may also direct that such Costs and Expenses shall be raised by Sale or Mortgage of a sufficient Part of such Hereditaments, or out of the Rents or Profits thereof, such Costs and Expenses to be taxed as the Court shall direct.

Lord Chancellor may make Rules and Orders.

XXVIII. The Lord Chancellor of Great Britain, with the Advice and Assistance of the English Master of the Rolls, the Lords Justices of the Court of Appeal in Chancery, and the Vice-Chancellors, or of any

any Three of them, so far as relates to Proceedings in England, and the Lord Chancellor of Ireland, with the Advice and Assistance of the Irish Master of the Rolls, so far as relates to Proceedings in Ireland, may, if he shall think fit, from Time to Time make General Rules and Orders for carrying the Purposes of this Act into effect, and for regulating the Times and Form and Mode of Procedure, and generally the Practice of the Court in respect of the Matters to which this Act relates, and for regulating the Fees and Allowances to all Officers and Solicitors of the Court in respect to such Matters; and such Rules and Orders may from Time to Time be rescinded or altered by the like Authorities respectively; and all such Rules and Orders shall take effect as General Orders of the Court.

Rules and Orders to be laid before Parliament.

XXIX. All General Rules and Orders made as aforesaid shall, immediately after the making and issuing thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or if Parliament be not then sitting, within Twenty-one Days after the next Meeting thereof; and it shall be lawful for either of the Houses of Parliament, by any Resolution passed within Thirty-six Days after such Rules or Orders have been laid before it, to resolve that the same or any Part thereof ought not to continue in force, and thereupon the same shall cease to be binding.

Tenants for Life, &c. may grant Leases for Twenty-one Years.

XXX. It shall be lawful for any Person entitled to the Possession or to the Receipt of the Rents and Profits of any Settled Estates for an Estate for Life or for a Term of Years determinable with his Life or for any greater Estate, either in his own Right or in right of his Wife, and also for any Person entitled to the Possession or to the Receipt of the Rents and Profits of any unsettled Estates as Tenant by the Courtesy, or in Dower, or in right of a Wife who is seised in Fee, to demise the same or any Part thereof, except the principal Mansion House and the Demesnes thereof, and other Lands usually occupied therewith, from Time to Time, for any Term not exceeding Twenty-one Years in possession, unless the Settlement shall contain an express Declaration that it shall not be lawful for such Person to make such Demise; provided, that every such Demise be made by Deed, and the best Rent that can reasonably be obtained be thereby reserved, without any Fine or other Benefit in the Nature of a Fine, which Rent shall be incident to the immediate Reversion; and provided, that such Demise be not made without Impeachment of Waste, and do contain a Condition of Re-entry on Nonpayment, within a Time not less than Twenty-eight Days, of the Rent thereby reserved, and on Nonobservance of the Covenants or Conditions therein contained, and provided a Counterpart of every Deed of Lease be made and executed by the Lessee.

XXXI. Every

Every such Lease to be valid against the Person granting the same.

XXXI. Every Demise authorized by the last preceding Section shall be valid against the Person granting the same, and all other Persons entitled to Estates subsequent to the Estate of such Person under or by virtue of the same Settlement, if the Estates be settled, and in the Case of unsettled Estates against all Persons claiming through or under the Wife or Husband (as the Case may be) of the Person granting the same.

Repeal of 32 Hen. 8. c. 28., except as to Ecclesiastical Leases.

XXXII. The Act of the Thirty-second Year of King Henry the Eighth, Chapter Twenty-eight, entitled "Lessees to enjoy the Farm against the Tenants in Tail," and the Act of the Parliament of Ireland of the Tenth Year of King Charles the First, Session Three, Chapter Six, intituled "An Act that Lessees shall enjoy their Farms against Tenants in Tail or in right of their Wives, &c.," are hereby repealed, except so far as relates to Leases made by Persons having an Estate in the Right of their Churches.

Provision as to Infants, Lunatics, &c.

XXXIII. All Powers given by this Act, and all Applications to the Court under this Act, and Consents to such Applications, may be exercised, made, or given by Guardians on behalf of Infants, and by Committees on behalf of Lunatics, and by Assignees of Bankrupts or Insolvents: Provided nevertheless, that in the Cases of Infant or Lunatic Tenants in Tail no Application to the Court or Consent to any Application may be made or given by any Guardian or Committee without the special Direction of the Court.

A married Woman applying to the Court to be examined apart from her Husband respecting the Nature of her Application.

XXXIV. Where a married Woman shall apply to the Court, or consent to an Application to the Court, under this Act, she shall first be examined apart from her Husband touching her Knowledge of the Nature and Effect of the Application, and it shall be ascertained that she freely desires to make or consent to such Application; and such Examination shall be made whether the Hereditaments which are the Subject of the Application shall be settled in trust for the separate Use of such married Woman independently of her Husband, or not; and no such Application or Consent shall be deemed a Breach of any Restraint on Anticipation.

Married Women to be examined by the Court, &c.

XXXV. The Examination of such married Woman shall be made either by the Court or by some Solicitor duly appointed by the Court for that Purpose, who shall certify, under his Hand, that he has examined her apart from her Husband, and is satisfied that she is aware of the Nature and Effect of the intended Application, and that she freely desires to make or consent to the same.

Married Women under Age.

XXXVI. Subject to such Examination as aforesaid, married Women may make or consent to any Applications, whether they be of full Age or Infants.

No Equity to compel any one to apply to the Court.

XXXVII. Nothing in this Act shall be construed to create any Obligation at Law or in Equity on any Person to make or consent to any Application to the Court, or to exercise any Power.

Tenants for Life, &c. may exercise Powers notwithstanding Incumbrances.

XXXVIII. For the Purposes of this Act, a Person shall be deemed to be entitled to the Possession or to the Receipt of the Rents and Profits of Estates, although his Estate may be charged or incumbered either by himself or by the Settlor, or otherwise howsoever, to any Extent; and any Lease or Sale authorized by this Act may be made either subject to any such Charge or Incumbrance, or freed therefrom, with the Concurrence of the Party entitled thereto.

Exception as to Entails created by Act of Parliament.

XXXIX. Provided always, That nothing in this Act shall authorize any Sale or Lease beyond the Term of Twenty-one Years of any Settled Estates in which, under the Act of the Thirty-fourth and Thirty-fifth Years of King Henry the Eighth, Chapter Twenty, "to embar feigned Recovery of Lands wherein the King is in Reversion," or under any other Act of Parliament, the Tenants in Tail are restrained from barring or defeating their Estates Tail; but the Timber on any such last-mentioned Estates may be sold under this Act.

Saving Rights of Lords of Manors.

XL. Nothing in this Act shall authorize the granting of a Lease of any Copyhold or Customary Hereditaments not warranted by the Custom of the Manor without the Consent of the Lord, nor otherwise prejudice or affect the Rights of any Lord of a Manor.

To what Settlements this Act to extend.

XLI. The Provisions of this Act shall extend to all Settlements, whether made before or after it shall come in force, except those as to Demises to be made without Application to the Court, which shall extend only to Settlements made after this Act shall come in force.

Not to extend to Scotland.

XLII. This Act shall not extend to Scotland.

Commencement of Act.

XLIII. This Act shall come in force on the First Day of January One thousand eight hundred and fifty-six.

Leases and Sales of Settled Estates.

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BILL

INTITULED

An Act to facilitate Leases and Sales of Settled Estates.

(*Brought from the Lords* 22 *June* 1855.)

Ordered, by The House of Commons, *to be Printed*, 25 *June* 1855.

[Bill 194.]

Under 2 *oz.*

Leases and Sales of Settled Estates Bill.

[AS AMENDED BY THE SELECT COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Definitions; Sect 1.

Court of Chancery empowered to authorize Leases of Settled Estates for any Purposes, subject to certain Restrictions; Sects. 2—6.

Mode in which the Court may authorize such Leases; namely, either by approving of particular Leases, or vesting general Powers in Trustees; Sect. 7.

What Evidence is to be produced to the Court on an Application to authorize Leases; Sect. 8.

How Leases are to be effected under the Direction of the Court; Sects. 9, 10.

Court may authorize Sales of Settled Estates, and of Timber; Sect. 11.

Land may be sold for Building, reserving a Fee-farm Rent; Sect. 12.

Minerals, &c. may be excepted from Sales, and Purchasers may be required to enter into Covenants; Sect. 13.

Court may authorize Dedication of Parts of Settled Estates for Roads, &c.; Sect. 14.

How Sales and Dedications are to be effected under the Direction of the Court; Sect. 15.

Applications for Exercise of this Act to be made by whom, and with what Consents; Sects. 16—19.

Clause A.—Court not to grant Application in certain Cases; Sect. 20.

Notice of the Exercise of Powers conferred under this Act to be given where practicable; Sect. 21.

Court may appoint Trustees to receive and apply Monies arising from Sales; Sect. 22.

Until Application, Money to be invested in Exchequer Bills, &c.; Sect. 23.

Court may exercise Powers although no Provision in Settlement; Sect. 24.

Court may not authorize any Act that might not have been authorized by the Settlor; Sect. 25.

Lease or Sale under the Authority of the Court not to be invalidated; Sect. 26.

Costs; Sect. 27.

Lord Chancellor may make Rules and Orders; Sects. 28, 29.

Power to Tenants for Life, &c. to grant Husbandry Leases for Twenty-one Years; Sects. 30, 31.

Provisions as to Infants, Lunatics, married Women, &c.; Sect. 32—35.

No Equity to compel any one to avail himself of this Act; Sect. 36.

Tenants for Life, &c. may exercise Powers notwithstanding Incumbrances; Sect. 37.

Exception as to Entails created by Act of Parliament; Sect. 38.

Saving Rights of Lords of Manors; Sect. 39.

Extent of Application of Act, and Time of Commencement; Sects. 40—42.

A

B I L L

[AS AMENDED BY THE SELECT COMMITTEE]

INTITULED

An Act to facilitate Leases and Sales of Settled Estates.

[Note.—*Clause* A. *was added by the Select Committee.*]

WHEREAS it is expedient that the Court of Chancery should have Power in certain Cases to authorize Leases and Sales of Settled Estates where it shall deem that such Leases or Sales would be proper for the beneficial Administration of the Estate, and consistent with a due Regard for the Interests of all Parties entitled under the Settlement; and it is also expedient that Tenants for Life of Land in possession should have Power to grant Agricultural Leases thereof, at Rackrent, for a reasonable Period, to be binding on their Successors: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. The Word "Settlement," as used in this Act, shall signify any Act of Parliament, Deed, Agreement, Copy of Court Roll, Will, or other Instrument, or any Number of such Instruments, under or by virtue of which any Hereditaments of any Tenure stand limited to or in trust for any Persons, by way of Succession, including any such Instruments affecting the Estates of any One or more of such Persons exclusively; and the Term "Settled Estates" as used in this Act shall signify all Hereditaments of any Tenure which Interpretation.

are the Subject of a Settlement; and for the Purposes of this Act a Tenant in Tail after Possibility of Issue extinct shall be deemed to be a Tenant for Life.

Court of Chancery may authorize Leases of Settled Estates, subject to certain Conditions.

II. It shall be lawful for the Court of Chancery in England, so far as relates to Estates in England, and for the Court of Chancery in Ireland, so far as relates to Estates in Ireland, subject to the Provisions and Restrictions in this Act contained, to authorize Leases of any Settled Estates, or of any Rights or Privileges over or affecting any Settled Estates, for any Purpose whatsoever, whether involving Waste or not, provided the following Conditions be observed:

First, every such Lease shall be made to take effect in possession within One Year after the making thereof, and shall be for a Term of Years not exceeding for an Agricultural or Occupation Lease Twenty-one Years, for a Mining Lease, or a Lease of Water, Water Mills, Wayleaves, Waterleaves, or other Rights or Easements, Forty Years, and for a Building Lease, Ninety-nine Years, except only in Cases where the Court shall be satisfied that it is the usual Custom of the District and beneficial to the Inheritance to grant Building Leases for longer Terms, and then for such Terms as the Court shall direct:

Secondly, on every such Lease shall be reserved the best Rent, or Reservation in the Nature of Rent, either uniform or not, that can be reasonably obtained, to be made payable half-yearly or oftener, without taking any Fine or other Benefit in the Nature of a Fine:

Thirdly, where the Lease is of any Earth, Coal, Stone, or Mineral, a certain Portion of the whole Rent or Payment reserved shall be from Time to Time set aside and invested as herein-after mentioned; namely, when and so long as the Person for the Time being entitled to the Receipt of such Rent is a Person who by reason of his Estate, or by virtue of any Declaration in the Settlement, is entitled to work such Earth, Coal, Stone, or Mineral for his own Benefit, One Fourth Part of the Rent received, and otherwise Three Fourth Parts thereof; and in every such Lease sufficient Provision shall be made to insure such Application of the aforesaid Portion of the Rent, by the Appointment of Trustees, or otherwise, as the Court shall deem expedient:

Fourthly, no such Lease shall authorize the felling of any Trees, except so far as shall be necessary for the Purpose of clearing the Ground for any Buildings, Excavations, or other Works authorized by the Lease:

Fifthly, every such Lease shall be by Deed, and the Lessee shall execute a Counterpart thereof; and every such Lease shall contain a Condition for Re-entry on Nonpayment of the Rent for Twenty-eight Days after it becomes due.

III. Subject

Leases may contain special Covenants.

III. Subject and in addition to the Conditions herein-before mentioned, every such Lease shall contain such Covenants, Conditions, and Stipulations as the Court shall deem expedient with reference to the special Circumstances of the Demise.

Parts of Settled Estates may be leased.

IV. The Power to authorize Leases conferred by this Act shall extend to authorize Leases either of the whole or any Parts of the Settled Estates, and may be exercised from Time to Time.

Leases may be surrendered and renewed.

V. Any Leases granted under this Act may be surrendered, either for the Purpose of obtaining a Renewal of the same or not; and the Power to authorize Leases conferred by this Act shall extend to authorize new Leases of the whole or any Part of the Hereditaments comprised in any surrendered Lease.

The Power to authorize Leases may extend to preliminary Contracts.

VI. The Power to authorize Leases conferred by this Act shall extend to authorize preliminary Contracts to grant any such Leases; and any of the Terms of such Contracts may be varied in the Leases.

Mode in which Leases may be authorized.

VII. The Power to authorize Leases conferred by this Act may be exercised by the Court, either by approving of particular Leases, or by ordering that general Powers of leasing, in conformity with the Provisions of this Act, shall be vested in Trustees in manner herein-after mentioned.

What Evidence to be produced on an Application to authorize Leases.

VIII. When Application is made to the Court, either to authorize a particular Lease, or to vest any general Powers of leasing in Trustees, the Court shall require the Applicant to produce such Evidence as it shall deem sufficient to enable it to ascertain the Nature, Value, and Circumstances of the Estate, and the Terms and Conditions on which Leases thereof ought to be authorized.

After Approval of a Lease, Court to direct who shall be the Lessor.

IX. When a particular Lease or Contract for a Lease has been approved of by the Court, the Court shall direct what Person or Persons shall execute the same as Lessor; and the Lease or Contract executed by such Person or Persons shall take effect in all respects as if he or they was or were at the Time of the Execution thereof absolutely entitled to the whole Estate or Interest which is bound by the Settlement, and had immediately afterwards settled the same according to the Settlement; and so as to operate (if necessary) by way of Revocation and Appointment of the Use, or otherwise as the Court shall direct.

Powers of leasing may be vested in Trustees.

X. Where the Court shall deem it expedient that any general Powers of leasing any Settled Estates conformably to this Act should be vested in Trustees, it may by Order vest any such Power accordingly, either in the existing Trustees of the Settlement or any other Persons; and such Powers, when exercised by such Trustees, shall take effect in all respects as if the Power so vested in them had been originally contained in the Settlement, and so as to operate (if necessary) by way of Revocation and Appointment of the Use or otherwise as the Court shall direct; and in every such Case the Court, if it shall think fit, may impose any Conditions as to Consents or otherwise on the Exercise of such Power, and the Court may also authorize the Insertion of Provisions for the Appointment of new Trustees from Time to Time for the Purpose of exercising such Powers of leasing as aforesaid.

Court may authorize Sales of Settled Estates, and of Timber.

XI. It shall be lawful for the Court of Chancery in England, so far as relates to Estates in England, and for the Court of Chancery in Ireland, so far as relates to Estates in Ireland, if it shall deem it consistent with a due Regard for the Interests of all Parties entitled under the Settlement, and subject to the Provisions and Restrictions in this Act contained, from Time to Time to authorize a Sale of the whole or any Parts of any Settled Estates, or of any Timber (not being ornamental Timber) growing on any Settled Estates, and every such Sale shall be conducted and confirmed in the same Manner as by the Rules and Practice of the Court for the Time being is or shall be required in the Sale of Lands sold under a Decree of the Court.

Land may be sold for Building, reserving a Rent.

XII. When any Land is sold for Building Purposes, it shall be lawful for the Court, if it shall see fit, to allow the whole or any Part of the Consideration to be a Rent issuing out of such Land, which may be secured and settled in such Manner as the Court shall approve.

Minerals, &c. may be excepted from Sales.

XIII. On any Sale of Land any Earth, Coal, Stone, or Mineral may be excepted, and any Rights or Privileges may be reserved, and the Purchaser may be required to enter into any Covenants, or submit to any Restrictions, which the Court may deem advisable.

Court may authorize Dedication of Parts of Settled Estates for Roads, &c.

XIV. It shall be lawful for the Court of Chancery in England, so far as relates to Estates in England, and for the Court of Chancery in Ireland, so far as relates to Estates in Ireland, subject to the Provisions and Restrictions in this Act contained, from Time to Time to direct that any Part of any Settled Estates be laid out for Streets, Roads, or Paths, Sewers, Drains, or Watercourses, either to be dedicated to the Public or not; and the Court may direct that the

Parts

Parts so laid out shall remain vested in the Trustees of the Settlement, or be conveyed to and vested in any other Trustees, upon such Trusts for securing the continued Appropriation thereof to the Purposes aforesaid in all respects, and with such Provisions for the Appointment of new Trustees when required, as by the Court shall be deemed advisable.

How Sales and Dedications are to be effected under the Direction of the Court.

XV. On every Sale or Dedication to be effected as herein-before mentioned the Court may direct what Person or Persons shall execute the Deed of Conveyance; and the Deed executed by such Person or Persons shall take effect as if the Settlement had contained a Power enabling such Person or Persons to effect such Sale or Dedication, and so as to operate (if necessary) by way of Revocation and Appointment of the Use, or otherwise as the Court shall direct.

Application by Petition to exercise Powers conferred by this Act.

XVI. Any Person entitled to the Possession or to the Receipt of the Rents and Profits of any Settled Estates for a Term of Years determinable on his Death, or for an Estate for Life or any greater Estate, may apply to the Court of Chancery, by Petition in a summary Way, to exercise the Powers conferred by this Act.

With whose Consent such Application to be made.

XVII. Subject to the Exception contained in the next Section, every Application to the Court must be made with the Concurrence or Consent of the following Parties; namely,

Where there is no Tenant in Tail under the Settlement in existence, of full Age, then the Parties to concur or consent shall be all the Persons in existence having any beneficial Estate or Interest under or by virtue of the Settlement, and also all Trustees having any Estate or Interest on behalf of any unborn Children;

And where there is a Tenant in Tail under the Settlement in existence, and of full Age, then the Parties to concur or consent shall be such Tenant in Tail and all Persons in existence having any beneficial Estate or Interest under or by virtue of the Settlement prior to the Estate of such Tenant in Tail, and all Trustees having any Estate or Interest on behalf of any unborn Children prior to the Estate of such Tenant in Tail.

Petition may be granted without Consent.

XVIII. Provided, nevertheless, That it shall be lawful for the Court, if it shall think fit, to give effect to any Petition, subject to and so as not to affect the Rights, Estate, or Interest of any Person (not being a Tenant in Tail) whose Consent or Concurrence has been refused or cannot be obtained, or whose Rights, Estate, or Interest ought in the Opinion of the Court to be excepted.

Notice of Application to be served on all Trustees, &c.

XIX. Notice of any Application to the Court under this Act shall be served on all Trustees who are seised or possessed of any Estate in trust for any Person whose Consent or Concurrence to or in the Application is hereby required, and on any other Parties who in the Opinion of the Court ought to be so served, unless the Court shall think fit to dispense with such Notice.

Clause A. Court not to grant Application in certain Cases.

XX. The Court shall not be at liberty to grant any Application under this Act in any Case where the Applicant, or any Party entitled under the same Settlement, has previously applied to either House of Parliament for a Private Act to effect the same or a similar Object, and has not obtained such Act; Notice of any Application to the Court under this Act shall also be inserted in such Newspapers as the Court shall direct; and any Person or Body Corporate, whether interested in the Estate or not, may apply to the Court of Chancery, by Motion, for Leave to be heard in opposition to or in support of any Application which may be made to the Court under this Act; and the Court is hereby authorized to permit such Person or Corporation to appear and be heard in opposition to or support of any such Application on such Terms and in such Manner as it shall think fit.

Notice of the Exercise of Powers to be given by the Court.

XXI. The Court shall direct that some sufficient Notice of any Exercise of any of the Powers conferred on it by this Act shall be placed on the Settlement or on any Copies thereof, or otherwise recorded in any way it may think proper, in all Cases where it shall appear to the Court to be practicable and expedient, for preventing Fraud or Mistake; and as to any Lands situate in Ireland, or in any registered County in England, a Memorial of the Order creating or directing the Exercise of any Power shall be registered in the Offices for registering Deeds in Ireland or such Counties respectively, and Notice thereof endorsed on the Memorial of the Settlement in such Registry Offices.

Court may appoint Trustees to receive and apply Monies arising from Sales.

XXII. All Money to be received on any Sale effected under the Authority of this Act, or to be set aside out of the Rent or Payments reserved on any Lease of Earth, Coal, Stone, or Minerals as aforesaid, may, if the Court shall think fit, be paid to any Trustees of whom it shall approve, or otherwise the same shall be paid into the Bank of England or Ireland, as the Case may be, to the Account of the Accountant General of the Court of Chancery, ex parte the Applicant in the Matter of this Act, and in either Case such Money shall be applied, as the Court shall from Time to Time direct, to some One or more of the following Purposes; (namely,)

The Purchase or Redemption of the Land Tax, or the Discharge or Redemption of any Incumbrance affecting the Hereditaments

in

in respect of which such Money was paid, or affecting any other Hereditaments subject to the same Uses or Trusts; or

The Purchase of other Hereditaments to be settled in the same Manner as the Hereditaments in respect of which the Money was paid; or

The Payment to any Person becoming absolutely entitled:

And such Directions may be given upon the Petition of any Person interested, and on Notice to such other Persons as the Court shall think fit.

Until Application, Money to be invested in Exchequer Bills, &c.

XXIII. Until the Money can be applied as aforesaid, the same shall be from Time to Time invested in Exchequer Bills, or in the Purchase of Three per Centum Consolidated Bank Annuities, according as the Court shall think fit; and the Interest of such Exchequer Bills and Dividends of such Bank Annuities shall be paid to the Person who would have been entitled to the Rents and Profits of the Land if the Money had been invested in the Purchase of Land, or to his personal Representatives.

Court may exercise Powers, although no Provision in Settlement.

XXIV. The Court shall be at liberty to exercise any of the Powers conferred on it by this Act, whether the Court shall have already exercised any of the Powers conferred by this Act in respect of the same Property, or not; but no such Powers shall be exercised if an express Declaration or manifest Intention that they shall not be exercised is contained in the Settlement, or may reasonably be inferred therefrom, or from extrinsic Circumstances or Evidence: Provided always, that the Circumstance of the Settlement containing Powers to effect similar Purposes shall not preclude the Court from exercising any of the Powers conferred by this Act, if it shall think that the Powers contained in the Settlement ought to be extended.

Court not to authorize any Act not authorized by the Settlor.

XXV. Nothing in this Act shall be construed to empower the Court to authorize any Lease, Sale, or other Act beyond the Extent to which in the Opinion of the Court the same might have been authorized in and by the Settlement by the Settlor or Settlors.

Lease or Sale under the Authority of the Court not to be invalidated.

XXVI. After the Completion of any Lease or Sale, or other Act, under the Authority of the Court, purporting to be in pursuance of this Act, the same shall not be invalidated on the Ground that the Court was not hereby empowered to authorize the same; except that no such Lease, Sale, or other Act shall have any Effect against any Person whose Concurrence in or Consent to the Application ought to have been obtained, and was not obtained.

Costs.

XXVII. It shall be lawful for the Court, if it shall think fit, to order that all or any Costs or Expenses of all or any Parties of and incident to any Application under this Act shall be a Charge on the Hereditaments which are the Subject of the Application, or on any other Hereditaments included in the same Settlement, and subject to the same Limitations; and the Court may also direct that such Costs and Expenses shall be raised by Sale or Mortgage of a sufficient Part of such Hereditaments, or out of the Rents or Profits thereof, such Costs and Expenses to be taxed as the Court shall direct.

Lord Chancellor may make Rules and Orders.

XXVIII. The Lord Chancellor of Great Britain, with the Advice and Assistance of the English Master of the Rolls, the Lords Justices of the Court of Appeal in Chancery, and the Vice-Chancellors, or of any Three of them, so far as relates to Proceedings in England, and the Lord Chancellor of Ireland, with the Advice and Assistance of the Irish Master of the Rolls, so far as relates to Proceedings in Ireland, may, if he shall think fit, from Time to Time make General Rules and Orders for carrying the Purposes of this Act into effect, and for regulating the Times and Form and Mode of Procedure, and generally the Practice of the Court in respect of the Matters to which this Act relates, and for regulating the Fees and Allowances to all Officers and Solicitors of the Court in respect to such Matters; and such Rules and Orders may from Time to Time be rescinded or altered by the like Authorities respectively; and all such Rules and Orders shall take effect as General Orders of the Court.

Rules and Orders to be laid before Parliament.

XXIX. All General Rules and Orders made as aforesaid shall, immediately after the making and issuing thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or if Parliament be not then sitting, within Twenty-one Days after the next Meeting thereof; and it shall be lawful for either of the Houses of Parliament, by any Resolution passed within Thirty-six Days after such Rules or Orders have been laid before it, to resolve that the same or any Part thereof ought not to continue in force, and thereupon the same shall cease to be binding.

Tenants for Life, &c. may grant Leases for Twenty-one Years.

XXX. It shall be lawful for any Person entitled to the Possession or to the Receipt of the Rents and Profits of any Settled Estates for an Estate for Life or for a Term of Years determinable with his Life or for any greater Estate, either in his own Right or in right of his Wife, and also for any Person entitled to the Possession or to the Receipt of the Rents and Profits of any unsettled Estates as Tenant by the Courtesy, or in Dower, or in right of a Wife who is seised in Fee, to demise the same or any Part thereof, except the principal Mansion House and the Demesnes thereof, and other Lands usually

usually occupied therewith, from Time to Time, for any Term not exceeding Twenty-one Years, to take effect in possession within One Year from the making thereof, unless the Settlement shall contain an express Declaration that it shall not be lawful for such Person to make such Demise; provided that every such Demise be made by Deed, and the best Rent that can reasonably be obtained be thereby reserved, without any Fine or other Benefit in the Nature of a Fine, which Rent shall be incident to the immediate Reversion; and provided that such Demise be not made without Impeachment of Waste, and do contain all usual Covenants, and also a Condition of Re-entry on Nonpayment for Twenty-eight Days of the Rent thereby reserved, and on Nonobservance of the Covenants or Conditions therein contained; and provided a Counterpart of every Deed of Lease be made and executed by the Lessee.

Every such Lease to be valid against the Person granting the same.

XXXI. Every Demise authorized by the last preceding Section shall be valid against the Person granting the same, and all other Persons entitled to Estates subsequent to the Estate of such Person under or by virtue of the same Settlement, if the Estates be settled, and in the Case of unsettled Estates against all Persons claiming through or under the Wife or Husband (as the Case may be) of the Person granting the same.

Provision as to Infants, Lunatics, &c.

XXXII. All Powers given by this Act, and all Applications to the Court under this Act, and Consents to such Applications, may be exercised, made, or given by Guardians on behalf of Infants, and by Committees on behalf of Lunatics.

A married Woman applying to the Court to be examined apart from her Husband respecting the Nature of her Application.

XXXIII. Where a married Woman shall apply to the Court, or consent to an Application to the Court, under this Act, she shall first be examined apart from her Husband touching her Knowledge of the Nature and Effect of the Application, and it shall be ascertained that she freely desires to make or consent to such Application; and such Examination shall be made whether the Hereditaments which are the Subject of the Application shall be settled in trust for the separate Use of such married Woman independently of her Husband, or not; and no such Application or Consent shall be deemed a Breach of any Restraint on Anticipation.

Married Women to be examined by the Court, &c.

XXXIV. The Examination of such married Woman shall be made either by the Court or by some Solicitor duly appointed by the Court for that Purpose, who shall certify, under his Hand, that he has examined her apart from her Husband, and is satisfied that she is aware of the Nature and Effect of the intended Application, and that she freely desires to make or consent to the same.

Married Women under Age.

XXXV. Subject to such Examination as aforesaid, married Women may make or consent to any Applications, whether they be of full Age or Infants.

No Equity to compel any one to apply to the Court.

XXXVI. Nothing in this Act shall be construed to create any Obligation at Law or in Equity on any Person to make or consent to any Application to the Court, or to exercise any Power.

Tenants for Life, &c. may exercise Powers notwithstanding Incumbrances.

XXXVII. For the Purposes of this Act, a Person shall be deemed to be entitled to the Possession or to the Receipt of the Rents and Profits of Estates, although his Estate may be charged or incumbered either by himself or by the Settlor, or otherwise howsoever, to any Extent; and any Lease or Sale authorized by this Act may be made either subject to any such Charge or Incumbrance, or freed therefrom, with the Concurrence of the Party entitled thereto.

Exception as to Entails created by Act of Parliament.

XXXVIII. Provided always, That nothing in this Act shall authorize any Sale or Lease beyond the Term of Twenty-one Years of any Settled Estates in which, under the Act of the Thirty-fourth and Thirty-fifth Years of King Henry the Eighth, Chapter Twenty, "to embar feigned Recovery of Lands wherein the King is in Reversion," or under any other Act of Parliament, the Tenants in Tail are restrained from barring or defeating their Estates Tail; but the Timber on any such last-mentioned Estates may be sold under this Act.

Saving Rights of Lords of Manors.

XXXIX. Nothing in this Act shall authorize the granting of a Lease of any Copyhold or Customary Hereditaments not warranted by the Custom of the Manor without the Consent of the Lord, nor otherwise prejudice or affect the Rights of any Lord of a Manor.

To what Settlements this Act to extend.

XL. The Provisions of this Act shall extend to all Settlements, whether made before or after it shall come in force, except those as to Demises to be made without Application to the Court, which shall extend only to Settlements made after this Act shall come in force.

Not to extend to Scotland.

XLI. This Act shall not extend to Scotland.

Commencement of Act.

XLII. This Act shall come in force on the First Day of January One thousand eight hundred and fifty-six.

Leases and Sales of Settled Estates.

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BILL

[AS AMENDED BY THE SELECT COMMITTEE]

INTITULED

An Act to facilitate Leases and Sales of Settled Estates.

(*Brought from the Lords* 22 *June* 1855.)

Ordered, by The House of Commons, *to be Printed*, 6 *August* 1855.

Bill 290.]

Under 2 *oz.*

A

B I L L

INTITULED

An Act for appropriating the Corps of the Prebend or Portion of Netherhall Ledbury in the Diocese and County of Hereford, and for constituting the Living of Ledbury a Rectory with Cure of Souls, and for augmenting the Endowments thereof.

Preamble.

Prebends or Portions of Overhall and Netherhall in Ledbury, with alternate Right of Patronage of Vicarage.

Vicarage of Ledbury having Cure of Souls therein.

WHEREAS there are in the Diocese and County of Hereford Two Prebends or Portions of a Prebend respectively, called the Prebend of Overhall and the Prebend of Netherhall, Ledbury, founded in the Cathedral Church of Hereford, and in the Gift or Patronage of the Bishop of Hereford, the respective Prebendaries or Portionists whereof had the alternate Right of Patronage or Presentation of or to the Vicarage and Parish Church of Ledbury: And whereas the said Vicarage was formerly endowed with a certain Portion of Tithes, which was commuted in the Year One thousand eight hundred and thirty-nine, under the Acts of Parliament for the Commutation of Tithes in England and Wales, for a yearly Rentcharge of Four hundred and sixty Pounds Two Shillings, variable according to the Provisions of the said Acts, and payable to the Vicar for the Time being of the said Vicarage, and

the sole Cure of Souls in the said Parish of Ledbury has been for many Years past and still is exercised by the said Vicar for the Time being: And whereas at the Time of the passing of the Act of the Third and Fourth Years of Her Majesty's Reign, Chapter One hundred and thirteen, the Prebend or Portion of Overhall had by the Death of the Reverend Henry Stonhouse Vigor, late Prebendary or Portionist thereof, become and was then vacant, and by virtue of such Act all the Lands, Tithes, and other Hereditaments, and all other Emoluments and Endowments belonging thereto, (excepting Rights of Patronage,) became vested in the Ecclesiastical Commissioners for England, for the Purposes of the said Act, and the alternate Right of Presentation to the said Vicarage, theretofore belonging to the said last-mentioned Prebendary or Portionist, devolved upon the Bishop of Hereford: And whereas in the Year One thousand eight hundred and two the Reverend James Watts, Clerk, was collated, or presented by the then Bishop of Hereford, to the Prebend of Netherhall, and was thereupon duly installed Prebendary thereof; and the Vicarage of the said Parish of Ledbury having in the Year One thousand eight hundred and ten become vacant, the said James Watts, in virtue of the alternate Right of Presentation which thereupon accrued in Turn to him as such Prebendary or Portionist of Netherhall, presented himself to and was duly instituted and inducted Vicar of the said Vicarage, and he thenceforth continued Prebendary or Portionist of the said last-mentioned Prebend or Portion, and also Vicar of the said Vicarage, and enjoyed the Profits and Emoluments thereof respectively, to the Time of his Death: And whereas the said James Watts died in the Year One thousand eight hundred and forty-seven, and thereupon the alternate Right of Presentation to the said Vicarage, theretofore belonging to the Prebend of Netherhall, also devolved, by Force of the said Act, upon the Bishop of Hereford, and shortly afterwards the Reverend James George Watts, Son of the said James Watts, was collated by the Bishop of Hereford to the said Vicarage, and he was thereupon duly inducted to and is now the Vicar or Incumbent of the said Vicarage: And whereas upon the Decease of the said James Watts all the Estates and Endowments, excepting Rights of Patronage, belonging to the said Prebend or Portion of Netherhall (subject to the Term and Interest then unexpired therein under a certain Indenture of Lease dated the Fifteenth January One thousand eight hundred and twenty-eight, and made between the said James Watts, therein described as Portionist and Prebendary of the Portion or Prebend called Netherhall in the Parish Church of Ledbury in the County of Hereford, of the one Part, and Philip John Miles, Esquire, of the other Part, for Three Lives,) were considered to have become vested in the said Ecclesiastical Commissioners by virtue of the said Act,

Prebend of Overhall vacant by Death of the Rev. Henry Stonhouse Vigor.

Estates thereof vested in Ecclesiastical Commissioners, and alternate Right of Patronage in the Bishop of Hereford.

Rev. J. Watts presented to the Prebend of Netherhall in 1802.

Instituted as Vicar on his alternate Right of Presentation as such Prebendary.

His Death in 1847; and Rev. J. G. Watts instituted as Vicar on Collation of Bishop.

Estates of Prebend of Netherhall, subject to outstanding Lease, vested in Ecclesiastical Commissioners.

as being the Estates of a Prebend not residentiary; but a Claim has since been set up to the said last-mentioned Prebend or Portion by the said James George Watts, as Vicar of the said Vicarage, on the Ground, as he contends, that the same Prebend or Portion was a Rectory without Cure of Souls, and having been held by the said James Watts, deceased, together with the said Vicarage, for the Period of Twenty Years last past before the passing of the said Act, the same Rectory and Vicarage had under the Provisions of the said Act become permanently united, and do now constitute a Rectory with Cure of Souls; and the Rents which had become payable upon the Twenty-ninth Day of September One thousand eight hundred and fifty-two in respect of the last-mentioned Prebend or Portion since the Death of the said James Watts, amounting to Eighty-four Pounds, have been paid into the Court of Queen's Bench, under a Judge's Order in an Action of Ejectment: And whereas, in order to avoid the Costs of Litigation in regard to the Claim of the said James George Watts, which is resisted on the Part of the said Ecclesiastical Commissioners, a Proposal has been agreed upon by the said Ecclesiastical Commissioners and the said James George Watts, with the Consent of the Right Reverend Renn Dickson, Bishop of Hereford, that the said Parish of Ledbury should be and be considered or be made a Rectory with Cure of Souls, in the Patronage of the Bishop of Hereford for the Time being, and that the said James George Watts should, without further Collation, Induction, or Institution thereto, become and be the Rector thereof, and that in addition to the Tithes Rentcharge and other Profits and Emoluments belonging to the said Vicarage to be annexed to the said Rectory, the said Rectory should be endowed in the Manner herein-after in this Act provided, and, subject thereto, that the whole of the Lands, Tithes, and other Hereditaments (excepting Rights of Patronage), and all other Emoluments and Endowments belonging to the said Prebend or Portion of Netherhall, subject to the said Lease, should remain or become vested in the said Ecclesiastical Commissioners, for the Purposes of the said Acts: But, inasmuch as the aforesaid Objects cannot be carried into effect without the Aid and Authority of Parliament, may it therefore please Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

But Claim set up by Vicar to Prebend as a sinecure Rectory.

Proposals for Arrangement.

I. The Parish and Parish Church of Ledbury in the Diocese and County of Hereford shall henceforth be and be deemed a Rectory with Cure of Souls in the Gift or Patronage of the Bishop of Hereford for the Time being, and the said James George Watts shall, without further Collation, Presentation, Institution, or Induction be and be deemed

Parish and Parish Church of Ledbury to become a Rectory with Cure of Souls.

deemed the Rector of the said Rectory, and the Freehold of the Parish Church and Burial Ground of Ledbury aforesaid shall henceforth and for ever hereafter be vested in the said James George Watts as such Rector, and his Successors Rectors thereof for the Time being.

Tithe Rentcharge and other Emoluments of Vicarage to remain vested in Rector for the Time being;

II. The Rentcharge of Four hundred and sixty Pounds Two Shillings, awarded or agreed to be paid, under the Act for the Commutation of Tithes in England and Wales, to the Vicar of the said Vicarage, in lieu of the Tithes theretofore belonging to the said Vicarage, and also all Mortuaries, Easter Offerings, Surplice Fees, and all other Fees, Profits, and Emoluments heretofore payable to or enjoyed by the Vicar for the Time being of the said Vicarage, shall henceforth belong and be paid to the said James George Watts as Rector, and his Successors Rectors for the Time being of the said Rectory.

also Lands and Tithe Rentcharge specified in Schedule;

III. The several Closes or Parcels of Land and Tithes Rentscharge mentioned and specified in the Schedule to this Act (being Parcel of the late Prebend or Portion of Netherhall), freed and discharged from the yearly Pension of Sixteen Bushels of Wheat and Sixteen Bushels of Oats payable to the Vicar for the Time being of the said Parish Church of Ledbury, and from the Land Tax in respect of the said Land, which has been redeemed, and Tithe Rentcharge, shall, from and immediately after the Expiration or other sooner Determination of the Term, Estate, and Interest granted therein by the said Indenture of Lease of the Fifteenth of January One thousand eight hundred and twenty-eight, (but without conferring any Right to any Portion of the Rent reserved by the said Lease during the Continuance thereof,) belong to and be permanently annexed to the said Rectory, and be held and enjoyed by the Rector thereof for the Time being for ever hereafter, by way of Augmentation of the said Rectory; but subject, nevertheless, and charged to and with the keeping in due State of Repair the North Side of the Chancel of the Parish Church of Ledbury, and also to and with the Payment of the yearly Sum of Thirty Pounds to the Minister or Curate for the Time being of the District of Wellington Heath in Ledbury, by half-yearly Payments to be made on the First Day of June and the First Day of December in each Year, the first of such half-yearly Payments or a proportionate Part thereof to be made on such One of the said Days as shall happen next after the Expiration or sooner Determination of the said Lease.

subject to Payment of 30*l.* per Annum to Minister of District of Wellington Heath in Ledbury.

Until Determination of Lease, Ecclesiastical Commission-

IV. In the meantime, until the Expiration or sooner Determination of the said Lease, the said Ecclesiastical Commissioners shall, out of their Common Fund, pay to the said James George Watts as Rector, and his Successors Rectors for the Time being of the said Rectory, an annual

annual Sum of Two hundred and thirty Pounds, clear of all Deductions, other than on account of Property or Income Tax, by equal half-yearly Payments, to be made on the First Day of May and the First Day of November in each Year, such Payment to be considered to have commenced and taken effect from the First Day of May One thousand eight hundred and fifty-three, and also a proportionate Part of the said annual Sum in respect of the Number of Days which shall have elapsed of the current Half Year in which the said Lease shall expire or be determined, and such annual Sum and proportionate Part to be by way of Augmentation of the said Rectory, in lieu of the said Parcels of Land Tithes Rentscharge mentioned in the said Schedule, until the same shall fall into the Possession and Receipt of the said Rector, and to be charged with the Payment of the like annual Sum of Thirty Pounds as from the said First Day of May One thousand eight hundred and fifty-three to the Minister or Curate for the Time being of the said District of Wellington Heath, and on the like Days as are in this Act before mentioned in respect to the Payment of the said annual Sum of Two hundred and thirty Pounds.

ers to pay annual Sum to the Rector;

charged with the annual Payment of 30*l.*

V. All other the Lands, Tithes, Tithes Rentscharge, and Hereditaments belonging to or constituting the Corps of the Prebend or Portion of Netherhall, whether the same be or be not a Sinecure Rectory, within the Intent and Meaning of the said recited Act of the Third and Fourth Years of Her said Majesty's Reign, (save and except Rights of Patronage, and also save and except the Right, from and after the Expiration or other sooner Determination of the said Lease, to the said Pieces or Parcels of Land and Tithes Rentscharge, and the redeemed Land Tax in respect thereof, comprised in the Schedule to this Act, and intended to be hereby vested in expectancy in the Rector for the Time being of the said Rectory,) together with, and not by way of Exception, the whole of the Rents, and the Benefit of all the Covenants, Conditions, and Agreements reserved and contained by and in the said Indenture of Lease, and which on the Lessee's or Assignee's Part are or ought to be paid, observed, and performed, including the Right to all Sums paid into Court as aforesaid, and all other Sums now due on account of the said Rent, shall, freed and discharged from the said yearly Pension of Fifteen Bushels of Wheat and Fifteen Bushels of Oats, or any other Payments or Dues, to the Rector or Vicar of the Parish Church of Ledbury, from and after the passing of this Act, but subject and without Prejudice to the Term, Estate, and Interest granted by the said Lease, remain and be absolutely vested in the said Ecclesiastical Commissioners for England, their Successors and Assigns, to be by them held, possessed, and administered for the Purposes and under and according to the Provisions of the said Act of the Third and Fourth Years of Her

Residue of Lands and Profits of Prebend or Portion of Netherhall to vest in Ecclesiastical Commissioners, and be held as Part of Common Fund, under 3 & 4 Vict. c. 113.

Majesty's Reign, or any other Act or Acts relating to the said Ecclesiastical Commissioners with regard to the Estates of Non-residentiary Prebends.

Powers of Ecclesiastical Commissioners as Reversioners of Property in Lease.

VI. For the Purpose of enabling the said Ecclesiastical Commissioners and their Successors, as Reversioners of the Premises comprised in the said Indenture of Lease, to receive and recover the Rents due or to become due under the said Lease, and to exercise all Rights and Remedies in respect thereof, and of the Covenants, Conditions, and Agreements on the Part of the Lessee therein contained, and also of enabling the said Ecclesiastical Commissioners, if they shall think fit, to accept a Surrender of the Term, Estate, and Interest of the Lessee in the said Lands and Tithes Rentcharge comprised in the said Schedule hereto, the Reversion of and in the whole of the Premises comprised in or held under the said Lease shall be or be considered to be vested in them the said Ecclesiastical Commissioners during the Remainder of and subject to the Term, Estate, and Interest granted by the said Lease; but so, nevertheless, that in case the said Ecclesiastical Commissioners should accept a Surrender of the said Estate, Term, and Interest in the said Lands and Tithes Rentscharge comprised in the said Schedule, the same shall operate as an Extinguishment of the said Term and Interest therein, for the Benefit of the Rector for the Time being of the said Rectory, so as to accelerate his Right to the Possession and Receipt of the said last-mentioned Lands and Rentscharge; and thereupon the said annual Sum of Two hundred and thirty Pounds herein-before directed to be paid to the Rector for the Time being by the said Commissioners, out of their Common Fund, shall cease, anything herein-before contained to the contrary notwithstanding.

Style of Act.

VII. For all Purposes of Recital or Reference it shall be sufficient in all Cases to mention this Act as "The Rectory of Ledbury Act, 1855."

The

The SCHEDULE.

No. on Tithe Commutation Apportionment for the Parish of Ledbury.	Lands.	Cultivation.	Acreage.
			A. R. P.
Part 991	Orchard and Stable - -	Pasture -	1 1 15
980	Doghill Orchard - -	Pasture -	3 0 34
			4 2 9

The several annual Sums belonging to the said Prebend of Ledbury Netherhall, as apportioned by way of Tithe Rentcharge upon certain Lands in the said Parish of Ledbury, and payable, subject to Variation, under the Acts of Parliament passed for the Commutation of Tithes, amounting together to Two hundred and fifty Pounds (being exclusive of the Amount of Twenty-three Pounds and Twelve Shillings apportioned on the Estate belonging to such Prebend numbered 166, 160, 1663, 154, 157, 1402, 167, 164, 165, 991, 153, 156, 155, 161, 1434, 1435, 1403, 1404, 1406, 981, 180, 378, 388, 390, 174, 175, 172, 152, 995, 996, 169, 168, 150, 151, 1457, 1681, 376, 980, and 159, and on the Field numbered 1426 on the Plan annexed to the confirmed Tithe Apportionment for the said Parish of Ledbury).

The several annual Sums, amounting to Twenty Pounds Six Shillings and Sixpence, also belonging to the said Prebend, apportioned by way of Rentcharge upon certain Lands in the Parish of Aylton in the said County of Hereford, and payable, subject to Variation, under the said Acts of Parliament passed for the Commutation of Tithes.

Ledbury Prebend.

A

B I L L

INTITULED

An Act for appropriating the Gorps of the Prebend or Portion of Netherhall Ledbury in the Diocese and County of Hereford, and for constituting the Living of Ledbury a Rectory with Cure of Souls, and for augmenting the Endowments thereof.

(*Brought from the Lords* 19 *July* 1855.)

Ordered, by the House of Commons, *to be Printed,* 20 *July* 1855.

[Bill 261.]

Under 1 *oz.*

Limited Liability Bill.

ARRANGEMENT OF CLAUSES.

Mode of obtaining Limited Liability by future Companies; Sect. 1.

Mode of obtaining Limited Liability by existing Companies; 2.

Regulations to be observed on Complete Registration with Limited Liability; 3.

Penalties for Non-observance of such Regulations; 4.

Every Increase in the nominal Capital to be registered, under a Penalty; 5.

Members of certificated Companies to be free from personal Liability; 6.

Effect of Execution against Company; 7.

Rights of Creditors of existing Companies preserved; 8.

Change in the Name of a Company under the Act not to affect the Rights of the Company or other Parties; 9.

Companies to be dissolved and wound up when Three Fourths of the Capital lost; 10.

Penalty for Non-compliance with the preceding Provisions; 11.

Recovery of Penalties; 12.

Act to be taken as Part of 7 & 8 Vict. c. 110.;—13.

Act not to apply to Scotland; 14.

Short Title; 15.

[Bill 150.]

A

BILL

FOR

Limiting the Liability of Members of certain Joint Stock Companies.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

Preamble.

WHEREAS it is expedient to enable Members of Joint Stock Companies to limit the Liability for the Debts and Engagements of such Companies to which they are now subject: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Mode of obtaining Limited Liability by future Companies.

I. Any Joint Stock Company to be formed under the Act of the Eighth Year of Her Majesty, Chapter One hundred and ten, (other than an Insurance Company,) having a Capital Stock of the nominal Amount of not less than *Twenty thousand Pounds*, divided into Shares of a nominal Value not less than *Twenty-five Pounds* each, may obtain a Certificate of Complete Registration with Limited Liability upon complying with the Conditions following, in addition to doing all other Matters and Things now required in order to obtain a Certificate of Complete Registration; that is to say,

(1.) The Promoters shall state on their Returns to the Office for Provisional Registration that such Company is proposed to be formed with Limited Liability:

(2.) The Word "Limited" shall be the last Word of the Name of the Company:

 (3.) The

(3.) The Deed of Settlement shall contain a Statement to the Effect that the Company is formed with Limited Liability:

(4.) The Deed of Settlement shall be executed by Shareholders holding Shares to the Amount in the aggregate of at least *Three Fourths* of the nominal Capital of the Company, and there shall have been paid up by each of such Shareholders on account of his Shares not less than *Twenty Pounds per Centum:*

(5.) The Payment of the above Per-centage shall be acknowledged in or endorsed on the Deed of Settlement, and the Fact of the same having been bonâ fide so paid shall be verified by a Declaration of the Promoters, or any Two of them, made in pursuance of the Act made in the Sixth Year of the Reign of His late Majesty King William the Fourth, Chapter Sixty-two:

And upon such Conditions being complied with, and such other Matters and Things done, the Registrar of Joint Stock Companies shall grant a Certificate of Complete Registration with Limited Liability to such Company.

Mode of obtaining Limited Liability by existing Companies.

II. Any Joint Stock Company, except as aforesaid, completely registered under the said Act of the Eighth Year of Her Majesty, and having a Capital Stock of the nominal Amount of not less than *Twenty thousand Pounds*, may obtain a Certificate of Complete Registration with Limited Liability, in manner and subject to the Conditions following; that is to say,

The Directors of such Company may, with the Consent of at least *Three Fourths* in Number and Value of its Shareholders present at any General Meeting summoned for that Purpose, make such Alteration in the Name, nominal Value of Shares, and Deed of Settlement of the Company as may be necessary for enabling it to comply with the Conditions herein-before mentioned with respect to Joint Stock Companies seeking to obtain Certificates of Complete Registration with Limited Liability; and upon Compliance with such Conditions the Registrar shall grant to such Company, by its new Name, a Certificate of Complete Registration with Limited Liability, and thereupon all Privileges and Obligations hereby attached to Companies with Limited Liability, their Shareholders, Directors, and Officers, shall attach to the Company named in such Certificate, its Shareholders, Directors, and Officers.

Regulations to be observed on

III. Every Company that has obtained a Certificate of Complete Registration with Limited Liability shall paint or affix, and shall keep

keep painted or affixed, its Name on the Outside of every Office or Place in which the Business of the Company is carried on, in a conspicuous Position, in Letters easily legible, and shall have its Name engraven in legible Characters on its Seal, and shall have its Name mentioned in legible Characters in all Notices, Advertisements, and other official Publications of such Company.

Complete Registration with Limited Liability.

IV. If such Company do not paint or affix, and keep painted or affixed, its Name, in the Manner aforesaid, each of the Directors thereof shall be liable to a Penalty not exceeding *Five Pounds* for not so painting or affixing its Name, and for every Day during which such Name is not so kept painted or affixed; and if any Director or other Officer of the Company, or any Person on its Behalf, use any Seal purporting to be a Seal of the Company whereon its Name is not so engraven as aforesaid, or issue or authorize the Issue of any Notice, Advertisement, or other official Publication, relating to the Business of the Company, wherein its Name is not mentioned in the Manner aforesaid, he shall be liable to a Penalty of *Fifty Pounds*.

Penalties to be inflicted for Non-observance of such Regulations.

V. No Increase to be made in the nominal Capital of any Company that has obtained a Certificate of Complete Registration with Limited Liability shall be advertised or otherwise treated as Part of the Capital of such Company, until it has been registered with the Registrar of Joint Stock Companies; and no such Registration shall be made unless a Deed is produced to the Registrar, executed by Shareholders holding Shares of the nominal Value of not less than *Twenty-five Pounds* to the Amount in the aggregate of at least *Three Fourths* of the proposed increased Capital of the Company, nor unless it is proved to the Registrar, by such Acknowledgment and Declaration as herein-after mentioned, that upon each of such Shares there has been paid up by the Holder thereof an Amount of not less than Twenty Pounds per Centum; and if any such Increase of Capital as aforesaid be advertised or otherwise treated as Part of the Capital of the Company before the same has been so registered, every Director of such Company shall incur a Penalty of *Fifty Pounds;* and the Payment of the above Percentage shall be acknowledged in or endorsed on the Deed so produced, and the Fact of the same having been bonâ fide so paid shall be verified by a Declaration of the Directors, or any Two of them, made in pursuance of the said Act made in the Sixth Year of the Reign of His late Majesty King William the Fourth, Chapter Sixty-two.

Every Increase in the nominal Capital to be registered, under a Penalty.

VI. The Members of a Joint Stock Company which has so obtained a Certificate of Complete Registration with Limited Liability, after such

Members of certificated Companies

to be free from personal Liability.

such Certificate is granted, notwithstanding the Provisions contained in the said Act of the Eighth Year of Her present Majesty, shall not be triable under any Judgment, Decree, or Order which shall be obtained against such Company, or for any Debt or Engagement of such Company, further or otherwise than is herein-after provided.

Effect of Execution against Company.

VII. If any Execution, either at Law or in Equity, shall have been issued against the Property or Effects of the Company, and if there cannot be found sufficient whereon to levy such Execution, then such Execution may be issued against any of the Shareholders to the Extent of their Shares respectively in the Capital of the Company not then paid up: Provided always, that no such Execution shall issue against any Shareholder except upon an Order of the Court in which the Action, Suit, or other Proceeding shall have been brought or instituted, made upon Motion in open Court, after sufficient Notice in Writing to the Persons sought to be charged; and upon such Motion such Court may order Execution to issue accordingly; and for the Purpose of ascertaining the Names of the Shareholders, and the Amount of Capital remaining to be paid upon their respective Shares, it shall be lawful for any Person entitled to any such Execution, at all reasonable Times, to inspect the Register of Shareholders without Fee.

Rights of Creditors of existing Companies preserved.

VIII. Where any Company completely registered under the said Act of the Eighth Year of Her present Majesty shall obtain a Certificate of Complete Registration with Limited Liability, the Grant of such Certificate shall not prejudice or affect any Right which previously to the Grant of such Certificate has accrued to any Creditor or other Person against the Company in its Corporate Capacity, or against any Person then being or having been a Member of such Company, but every such Creditor or other Person shall be entitled to all such Remedies against the Company in its Corporate Capacity, and against every Person then being or having been a Member of such Company, as he would have been entitled to in case such Certificate had not been obtained.

Change in the Name of a Company under the Act not to affect the Rights of the Company or other Parties.

IX. No Alteration made by virtue of this Act in the Name of any Company shall prejudice or affect any Right which previously to such Alteration has accrued to such Company as against any other Company or Person, or which has accrued to any other Company or Person as against such Company, but every such Company as against any other Company or Person, and every other Company or Person as against such Company and the Members thereof, shall be entitled to all such Remedies as they or he would have been entitled to if no such Alteration had been made; and no such Alteration shall abate

abate or render defective any legal Proceeding pending at the Time when such Alteration is made.

Companies to be dissolved and wound up when Three Fourths of the Capital lost.

X. In the case of any Company which has obtained a Certificate of Limited Liability, whenever, on taking the yearly Accounts of such Company, or by any Report of the Auditors thereof, it appears that *Three Fourths* of the subscribed Capital Stock of the Company has been lost, or has become unavailable in the Course of Trade, or from the Insolvency of Shareholders, or from any other Cause, the Trading and Business of such Company shall forthwith cease, or shall be carried on for the sole Purpose of winding up its Affairs, and the Directors of such Company shall forthwith take proper Steps for the Dissolution of such Company, and for the winding up of its Affairs, either by Petition to the Court of Chancery, or by Exercise of the Powers of the Deed of Settlement, or by such other lawful Course as they may think most fit.

Penalty for Non-compliance with the last preceding Provision.

XI. If any Company whose Trading and Business ought under the last immediately preceding Section of this Act to have ceased continues after that Time to carry on any Trading or Business, except for the sole and bonâ fide Purpose of winding up its Affairs, every Director of such Company shall be liable to a Penalty not exceeding *Fifty Pounds* for every Week during which such Business is so unlawfully carried on.

Miscellaneous.

Recovery of Penalties.

XII. Every pecuniary Penalty imposed in pursuance of this Act shall be deemed a Debt due to the Crown, and shall be recoverable accordingly.

Act to be taken as Part of 7 & 8 Vict. c. 110.

XIII. This Act shall, so far as is consistent with the Contents and Subject Matter thereof, be taken as Part of and construed with the said Act of the Eighth Year of Her present Majesty, Chapter One hundred and ten, and the Act of the Eleventh Year of Her Majesty, Chapter Seventy-eight, and all the Provisions of the said Acts, save in so far as they are varied by this Act, shall apply to Persons and Companies applying for or obtaining a Certificate of Complete Registration with Limited Liability.

Act not to apply to Scotland.

XIV. This Act shall not apply to Scotland.

Short Title.

XV. This Act may be cited for all Purposes as "The Limited Liability Act, 1855."

Limited Liability.

A

BILL

For limiting the Liability of Members of certain Joint Stock Companies.

(*Prepared and brought in by Mr. FitzRoy, Mr. Bouverie, and Viscount Palmerston.*)

Ordered, by The House of Commons, *to be Printed,* 25 *May* 1855.

[Bill 150.]

Under 1 *oz.*

Limited Liability Bill.

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Mode of obtaining Limited Liability by future Companies; Sect. 1.

Mode of obtaining Limited Liability by existing Companies; 2.

Clause A. Mode of obtaining Limited Liability by existing Companies constituted under Acts of Parliament; 3.

Regulations to be observed on Complete Registration with Limited Liability; 4.

Penalties to be inflicted for Non-observance of such Regulations; 5.

Every Increase in the nominal Capital to be registered, under a Penalty; 6.

Members of certificated Companies to be free from personal Liability; 7.

Effect of Execution against Company; 8.

Rights of Creditors of existing Companies preserved; 9.

Change in the Name of a Company under the Act not to affect the Rights of the Company or other Parties; 10.

Companies to be dissolved and wound up when Three Fourths of the Capital lost; 11.

Penalty for Non-compliance with the last preceding Provision; 12.

Recovery of Penalties; 13.

Act to be taken as Part of 7 & 8 Vict. c. 110.; 14.

Act not to apply to Scotland; 15.

Short Title; 16.

A

B I L L

[AS AMENDED IN COMMITTEE]

FOR

Limiting the Liability of Members of certain Joint Stock Companies.

[Note.—*Clause* A. *was inserted in Committee.*]

WHEREAS it is expedient to enable Members of Joint Stock Companies to limit the Liability for the Debts and Engagements of such Companies to which they are now subject: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. Any Joint Stock Company to be formed under the Act of the Eighth Year of Her Majesty, Chapter One hundred and ten, (other than an Assurance Company,) having a Capital Stock of the nominal Amount of not less than Twenty thousand Pounds, divided into Shares of a nominal Value not less than Twenty-five Pounds each, may obtain a Certificate of Complete Registration with Limited Liability upon complying with the Conditions following, in addition to doing all other Matters and Things now required in order to obtain a Certificate of Complete Registration; that is to say, Mode of obtaining Limited Liability by future Companies.

(1.) The Promoters shall state on their Returns to the Office for Provisional Registration that such Company is proposed to be formed with Limited Liability:

(2.) The Word "Limited" shall be the last Word of the Name of the Company:

(3.) The Deed of Settlement shall contain a Statement to the Effect that the Company is formed with Limited Liability:

(4.) The Deed of Settlement shall be executed by Shareholders holding Shares to the Amount in the aggregate of at least Three Fourths of the nominal Capital of the Company, and there shall have been paid up by each of such Shareholders on account of his Shares not less than Twenty Pounds per Centum:

(5.) The Payment of the above Per-centage shall be acknowledged in or endorsed on the Deed of Settlement, and the Fact of the same having been bonâ fide so paid shall be verified by a Declaration of the Promoters, or any Two of them, made in pursuance of the Act made in the Sixth Year of the Reign of His late Majesty King William the Fourth, Chapter Sixty-two:

And upon such Conditions being complied with, and such other Matters and Things done, the Registrar of Joint Stock Companies shall grant a Certificate of Complete Registration with Limited Liability to such Company.

Mode of obtaining Limited Liability by existing Companies.

II. Any Joint Stock Company, except as aforesaid, completely registered under the said Act of the Eighth Year of Her Majesty, and having a Capital Stock of the nominal Amount of not less than Twenty thousand Pounds, may obtain a Certificate of Complete Registration with Limited Liability, in manner and subject to the Conditions following; that is to say,

The Directors of such Company may, with the Consent of at least Three Fourths in Number and Value of its Shareholders who may be present, personally or by Proxy, at any General Meeting summoned for that Purpose, make such Alteration in the Name, nominal Value of Shares, and Deed of Settlement of the Company as may be necessary for enabling it to comply with the Conditions herein-before mentioned with respect to Joint Stock Companies seeking to obtain Certificates of Complete Registration with Limited Liability; and upon Compliance with such Conditions the Registrar shall grant to such Company, by its new Name, a Certificate of Complete Registration with Limited Liability, and thereupon all Privileges and Obligations hereby attached to Companies with Limited Liability, their Shareholders, Directors, and Officers, shall attach to the Company named in such Certificate, its Shareholders, Directors, and Officers.

Clause A. Mode of obtaining

III. Any Joint Stock Company, except as aforesaid, constituted under any Act of Parliament, and having a Capital of the nominal Amount

Amount of not less than Twenty thousand Pounds, whereof it shall be proved to the Satisfaction of the Board of Trade that not less than Three Fourths have been paid up, may obtain a Certificate of Complete Registration with Limited Liability, in manner and subject to the Condition following; that is to say,

Limited Liability by existing Companies constituted under Acts of Parliament.

The Directors of such Company may, with the Consent of at least Three Fourths in Number and Value of its Shareholders who may be present, personally or by Proxy, at any General Meeting summoned for that Purpose, make such Alteration in the Name as may be necessary for enabling it to comply with the Condition in that Behalf herein-before mentioned with respect to Joint Stock Companies seeking to obtain Certificates of Complete Registration with Limited Liability; and upon Compliance with such Condition the Registrar shall grant to such Company, by its new Name, a Certificate of Complete Registration with Limited Liability; and therefore all Privileges and Obligations hereby attached to Companies with Limited Liability, their Shareholders, Directors, and Officers, shall attach to the Company named in such Certificate, its Shareholders, Directors, and Officers.

Regulations to be observed on Complete Registration with Limited Liability.

IV. Every Company that has obtained a Certificate of Complete Registration with Limited Liability shall paint or affix, and shall keep painted or affixed, its Name on the Outside of every Office or Place in which the Business of the Company is carried on, in a conspicuous Position, in Letters easily legible, and shall have its Name engraven in legible Characters on its Seal, and shall have its Name mentioned in legible Characters in all Notices, Advertisements, and other official Publications of such Company, and in all Bills of Parcels, Invoices, Receipts, and other Writings used in the Transaction of the Business of the Company.

Penalties to be inflicted for Non-observance of such Regulations.

V. If such Company do not paint or affix, and keep painted or affixed, its Name, in the Manner aforesaid, each of the Directors thereof shall be liable to a Penalty not exceeding Five Pounds for not so painting or affixing its Name, and for every Day during which such Name is not so kept painted or affixed; and if any Director or other Officer of the Company, or any Person on its Behalf, use any Seal purporting to be a Seal of the Company whereon its Name is not so engraven as aforesaid, or issue or authorize the Issue of any Notice, Advertisement, or other official Publication of such Company, or of any Bill of Parcels, Invoice, Receipt, and other Writing used in the Transaction of the Business of the Company, wherein its Name is not mentioned in the Manner aforesaid, he shall be liable to a Penalty of Fifty Pounds.

Every Increase in the nominal

VI. No Increase to be made in the nominal Capital of any Company that has obtained a Certificate of Complete Registration with

Capital to be registered, under a Penalty.

Limited Liability shall be advertised or otherwise treated as Part of the Capital of such Company, until it has been registered with the Registrar of Joint Stock Companies; and no such Registration shall be made unless a Deed is produced to the Registrar, executed by Shareholders holding Shares of the nominal Value of not less than Twenty-five Pounds to the Amount in the aggregate of at least Three Fourths of the proposed increased Capital of the Company, nor unless it is proved to the Registrar, by such Acknowledgment and Declaration as herein-after mentioned, that upon each of such Shares there has been paid up by the Holder thereof an Amount of not less than Twenty Pounds per Centum; and if any such Increase of Capital as aforesaid be advertised or otherwise treated as Part of the Capital of the Company before the same has been so registered, every Director of such Company shall incur a Penalty of Fifty Pounds; and the Payment of the above Percentage shall be acknowledged in or endorsed on the Deed so produced, and the Fact of the same having been bonâ fide so paid shall be verified by a Declaration of the Directors, or any Two of them, made in pursuance of the said Act made in the Sixth Year of the Reign of His late Majesty King William the Fourth, Chapter Sixty-two.

Members of certificated Companies to be free from personal Liability.

VII. The Members of a Joint Stock Company which has so obtained a Certificate of Complete Registration with Limited Liability, after such Certificate is granted, notwithstanding the Provisions contained in the said Act of the Eighth Year of Her present Majesty, shall not be liable, under any Judgment, Decree, or Order which shall be obtained against such Company, or for any Debt or Engagement of such Company, further or otherwise than is herein-after provided.

Effect of Execution against Company.

VIII. If any Execution, Sequestration, or other Process in the Nature of Execution, either at Law or in Equity, shall have been issued against the Property or Effects of the Company, and if there cannot be found sufficient whereon to levy or enforce such Execution, Sequestration, or other Process, then such Execution, Sequestration, or other Process may be issued against any of the Shareholders to the Extent of the Portions of their Shares respectively in the Capital of the Company not then paid up: Provided always, that no such Execution shall issue against any Shareholder except upon an Order of the Court in which the Action, Suit, or other Proceeding shall have been brought or instituted, made upon Motion in open Court, after sufficient Notice in Writing to the Persons sought to be charged; and upon such Motion such Court may order Execution to issue accordingly; and for the Purpose of ascertaining the Names of the Shareholders, and the Amount of Capital remaining to be paid upon their respective Shares, it shall be lawful for any Person entitled to any

any such Execution, at all reasonable Times, to inspect the Register of Shareholders without Fee.

Rights of Creditors of existing Companies preserved.

IX. Where any Company completely registered under the said Act of the Eighth Year of Her present Majesty, or any Company constituted under any Act of Parliament, shall obtain a Certificate of Complete Registration with Limited Liability, the Grant of such Certificate shall not prejudice or affect any Right which previously to the Grant of such Certificate has accrued to any Creditor or other Person against the Company in its Corporate Capacity, or against any Person then being or having been a Member of such Company, but every such Creditor or other Person shall be entitled to all such Remedies against the Company in its Corporate Capacity, and against every Person then being or having been a Member of such Company, as he would have been entitled to in case such Certificate had not been obtained.

Change in the Name of a Company under the Act not to affect the Rights of th Company or other Parties.

X. No Alteration made by virtue of this Act in the Name of any Company shall prejudice or affect any Right which previously to such Alteration has accrued to such Company as against any other Company or Person, or which has accrued to any other Company or Person as against such Company, but every such Company as against any other Company or Person, and every other Company or Person as against such Company and the Members thereof, shall be entitled to all such Remedies as they or he would have been entitled to if no such Alteration had been made; and no such Alteration shall abate or render defective any legal Proceeding pending at the Time when such Alteration is made.

Companies to be dissolved and wound up when Three Fourths of the Capital lost.

XI. In the case of any Company which has obtained a Certificate of Limited Liability, whenever, on taking the yearly Accounts of such Company, or by any Report of the Auditors thereof, it appears that Three Fourths of the subscribed Capital Stock of the Company has been lost, or has become unavailable in the Course of Trade, or from the Insolvency of Shareholders, or from any other Cause, the Trading and Business of such Company shall forthwith cease, or shall be carried on for the sole Purpose of winding up its Affairs, and the Directors of such Company shall forthwith take proper Steps for the Dissolution of such Company, and for the winding up of its Affairs, either by Petition to the Court of Chancery, or by Exercise of the Powers of the Deed of Settlement, or by such other lawful Course as they may think most fit.

Penalty for Noncompliance with the last preceding Provision.

XII. If any Company whose Trading and Business ought under the last immediately preceding Section of this Act to have ceased continues after that Time to carry on any Trading or Business, except for the sole and bonâ fide Purpose of winding up its Affairs, every

every Director of such Company shall be liable to a Penalty not exceeding Fifty Pounds for every Week during which such Business is so unlawfully carried on.

Recovery of Penalties.

XIII. Every pecuniary Penalty imposed in pursuance of this Act shall be deemed a Debt due to the Crown, and shall be recoverable accordingly.

Act to be taken as Part of 7 & 8 Vict. c. 110.

XIV. This Act shall, so far as is consistent with the Contents and Subject Matter thereof, be taken as Part of and construed with the said Act of the Eighth Year of Her present Majesty, Chapter One hundred and ten, and the Act of the Eleventh Year of Her Majesty, Chapter Seventy-eight, and all the Provisions of the said Acts, save in so far as they are varied by this Act, shall apply to Persons and Companies applying for or obtaining a Certificate of Complete Registration with Limited Liability.

Act not to apply to Scotland.

XV. This Act shall not apply to Scotland.

Short Title.

XVI. This Act may be cited for all Purposes as "The Limited Liability Act, 1855."

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BILL

[AS AMENDED IN COMMITTEE]

For limiting the Liability of Members of certain Joint Stock Companies.

(Prepared and brought in by Mr. FitzRoy, Mr. Bouverie, and Viscount Palmerston.)

Ordered, by The House of Commons, *to be Printed, 2 July* 1855.

[Bill 213.] *Under* 1 *oz.*

Limited Liability Bill.

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT.]

ARRANGEMENT OF CLAUSES.

Mode of obtaining Limited Liability by future Companies; Sect. 1.

Mode of obtaining Limited Liability by Companies now or hereafter registered; 2.

Mode of obtaining Limited Liability by existing Companies constituted under Acts of Parliament; 3.

Regulations to be observed on Complete Registration with Limited Liability; 4.

Penalties to be inflicted for Non-observance of such Regulations; 5.

Every Increase in the nominal Capital to be registered, under a Penalty; 6.

Members of certificated Companies to be free from personal Liability; 7.

Effect of Execution against Company; 8.

Rights of Creditors of existing Companies preserved; 9.

Change in the Name of a Company under the Act not to affect the Rights of the Company or other Parties; 10.

Recovery of Penalties; 11.

Act to be taken as Part of 7 & 8 Vict. c. 110.; 12.

Act not to apply to Scotland; 13.

Short Title; 14.

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B I L L

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT.]

FOR

Limiting the Liability of Members of certain Joint Stock Companies.

WHEREAS it is expedient to enable Members of Joint Stock Companies to limit the Liability for the Debts and Engagements of such Companies to which they are now subject: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows: Preamble.

I. Any Joint Stock Company to be formed under the Act of the Eighth Year of Her Majesty, Chapter One hundred and ten, (other than an Assurance Company,) with a Capital to be divided into Shares of a nominal Value not less than Ten Pounds each, may obtain a Certificate of Complete Registration with Limited Liability upon complying with the Conditions following, in addition to doing all other Matters and Things now required in order to obtain a Certificate of Complete Registration; that is to say, Mode of obtaining Limited Liability by future Companies.

(1.) The Promoters shall state on their Returns to the Office for Provisional Registration that such Company is proposed to be formed with Limited Liability:

(2.) The Word "Limited" shall be the last Word of the Name of the Company:

(3.) The Deed of Settlement shall contain a Statement to the Effect that the Company is formed with Limited Liability:

(4.) The Deed of Settlement shall be executed by Shareholders holding Shares to the Amount in the aggregate of at least Three Fourths of the nominal Capital of the Company, and there shall have been paid up by each of such Shareholders on account of his Shares not less than Twenty Pounds per Centum:

(5.) The Payment of the above Per-centage shall be acknowledged in or endorsed on the Deed of Settlement, and the Fact of the same having been bonâ fide so paid shall be verified by a Declaration of the Promoters, or any Two of them, made in pursuance of the Act made in the Sixth Year of the Reign of His late Majesty King William the Fourth, Chapter Sixty-two:

And upon such Conditions being complied with, and such other Matters and Things done, the Registrar of Joint Stock Companies shall grant a Certificate of Complete Registration with Limited Liability to such Company.

Mode of obtaining Limited Liability by Companies now or hereafter registered.

II. Any Joint Stock Company, except as aforesaid, now or hereafter completely registered under the said Act of the Eighth Year of Her Majesty, may obtain a Certificate of Complete Registration with Limited Liability, in manner and subject to the Conditions following; that is to say,

The Directors of such Company may, with the Consent of at least Three Fourths in Number and Value of its Shareholders who may be present, personally or by Proxy, at any General Meeting summoned for that Purpose, make such Alteration in the Name, nominal Value of Shares, and Deed of Settlement of the Company as may be necessary for enabling it to comply with the Conditions herein-before mentioned with respect to Joint Stock Companies seeking to obtain Certificates of Complete Registration with Limited Liability; and upon Compliance with such Conditions the Registrar shall grant to such Company, by its new Name, a Certificate of Complete Registration with Limited Liability, and thereupon all Privileges and Obligations hereby attached to Companies with Limited Liability, their Shareholders, Directors, and Officers, shall attach to the Company named in such Certificate, its Shareholders, Directors, and Officers.

Mode of obtaining Limited Liability by existing

III. Any Joint Stock Company, except as aforesaid, constituted under any Act of Parliament, whereof it shall be proved to the Satisfaction of the Board of Trade that not less than Twenty per

per Centum of the Capital of such Company has been paid up, may obtain a Certificate of Complete Registration with Limited Liability, in manner and subject to the Condition following; that is to say,

Companies constituted under Acts of Parliament.

The Directors of such Company may, with the Consent of at least Three Fourths in Number and Value of its Shareholders who may be present, personally or by Proxy, at any General Meeting summoned for that Purpose, make such Alteration in the Name as may be necessary for enabling it to comply with the Condition in that Behalf herein-before mentioned with respect to Joint Stock Companies seeking to obtain Certificates of Complete Registration with Limited Liability; and upon Compliance with such Condition the Registrar shall grant to such Company, by its new Name, a Certificate of Complete Registration with Limited Liability; and therefore all Privileges and Obligations hereby attached to Companies with Limited Liability, their Shareholders, Directors, and Officers, shall attach to the Company named in such Certificate, its Shareholders, Directors, and Officers.

IV. Every Company that has obtained a Certificate of Complete Registration with Limited Liability shall paint or affix, and shall keep painted or affixed, its Name on the Outside of every Office or Place in which the Business of the Company is carried on, in a conspicuous Position, in Letters easily legible, and shall have its Name engraven in legible Characters on its Seal, and shall have its Name mentioned in legible Characters in all Notices, Advertisements, and other official Publications of such Company, and in all Bills of Parcels, Invoices, Receipts, Letters, and other Writings used in the Transaction of the Business of the Company.

Regulations to be observed on Complete Registration with Limited Liability.

V. If such Company do not paint or affix, and keep painted or affixed, its Name, in the Manner aforesaid, each of the Directors thereof shall be liable to a Penalty not exceeding Five Pounds for not so painting or affixing its Name, and for every Day during which such Name is not so kept painted or affixed; and if any Director or other Officer of the Company, or any Person on its Behalf, use any Seal purporting to be a Seal of the Company whereon its Name is not so engraven as aforesaid, or issue or authorize the Issue of any Notice, Advertisement, or other official Publication of such Company, or of any Bill of Parcels, Invoice, Receipt, Letter, and other Writing used in the Transaction of the Business of the Company, wherein its Name is not mentioned in the Manner aforesaid, he shall be liable to a Penalty of Fifty Pounds.

Penalties to be inflicted for Non-observance of such Regulations.

VI. No Increase to be made in the nominal Capital of any Company that has obtained a Certificate of Complete Registration with Limited

Every Increase in the nominal

Capital to be registered, under a Penalty.

Limited Liability shall be advertised or otherwise treated as Part of the Capital of such Company, until it has been registered with the Registrar of Joint Stock Companies; and no such Registration shall be made unless a Deed is produced to the Registrar, executed by Shareholders holding Shares of the nominal Value of not less than Ten Pounds to the Amount in the aggregate of at least Three Fourths of the proposed increased Capital of the Company, nor unless it is proved to the Registrar, by such Acknowledgment and Declaration as herein-after mentioned, that upon each of such Shares there has been paid up by the Holder thereof an Amount of not less than Twenty Pounds per Centum; and if any such Increase of Capital as aforesaid be advertised or otherwise treated as Part of the Capital of the Company before the same has been so registered, every Director of such Company shall incur a Penalty of Fifty Pounds; and the Payment of the above Percentage shall be acknowledged in or endorsed on the Deed so produced, and the Fact of the same having been bonâ fide so paid shall be verified by a Declaration of the Directors, or any Two of them, made in pursuance of the said Act made in the Sixth Year of the Reign of His late Majesty King William the Fourth, Chapter Sixty-two.

Members of certificated Companies to be free from personal Liability.

VII. The Members of a Joint Stock Company which has so obtained a Certificate of Complete Registration with Limited Liability, after such Certificate is granted, notwithstanding the Provisions contained in the said Act of the Eighth Year of Her present Majesty, shall not be liable, under any Judgment, Decree, or Order which shall be obtained against such Company, or for any Debt or Engagement of such Company, further or otherwise than is herein-after provided.

Effect of Execution against Company.

VIII. If any Execution, Sequestration, or other Process in the Nature of Execution, either at Law or in Equity, shall have been issued against the Property or Effects of the Company, and if there cannot be found sufficient whereon to levy or enforce such Execution, Sequestration, or other Process, then such Execution, Sequestration, or other Process may be issued against any of the Shareholders to the Extent of the Portions of their Shares respectively in the Capital of the Company not then paid up: Provided always, that no such Execution shall issue against any Shareholder except upon an Order of the Court in which the Action, Suit, or other Proceeding shall have been brought or instituted, made upon Motion in open Court, after sufficient Notice in Writing to the Persons sought to be charged; and upon such Motion such Court may order Execution to issue accordingly; and for the Purpose of ascertaining the Names of the Shareholders, and the Amount of Capital remaining to be paid upon their respective Shares, it shall be lawful for any Person entitled to

any

any such Execution, at all reasonable Times, to inspect the Register of Shareholders without Fee.

Rights of Creditors of existing Companies preserved.

IX. Where any Company completely registered under the said Act of the Eighth Year of Her present Majesty, or any Company constituted under any Act of Parliament, shall obtain a Certificate of Complete Registration with Limited Liability, the Grant of such Certificate shall not prejudice or affect any Right which previously to the Grant of such Certificate has accrued to any Creditor or other Person against the Company in its Corporate Capacity, or against any Person then being or having been a Member of such Company, but every such Creditor or other Person shall be entitled to all such Remedies against the Company in its Corporate Capacity, and against every Person then being or having been a Member of such Company, as he would have been entitled to in case such Certificate had not been obtained.

Change in the Name of a Company under the Act not to affect the Rights of the Company or other Parties.

X. No Alteration made by virtue of this Act in the Name of any Company shall prejudice or affect any Right which previously to such Alteration has accrued to such Company as against any other Company or Person, or which has accrued to any other Company or Person as against such Company, but every such Company as against any other Company or Person, and every other Company or Person as against such Company and the Members thereof, shall be entitled to all such Remedies as they or he would have been entitled to if no such Alteration had been made; and no such Alteration shall abate or render defective any legal Proceeding pending at the Time when such Alteration is made.

Recovery of Penalties.

XI. Every pecuniary Penalty imposed in pursuance of this Act shall be deemed a Debt due to the Crown, and shall be recoverable accordingly.

Act to be taken as Part of 7 & 8 Vict. c. 110.

XII. This Act shall, so far as is consistent with the Contents and Subject Matter thereof, be taken as Part of and construed with the said Act of the Eighth Year of Her present Majesty, Chapter One hundred and ten, and the Act of the Eleventh Year of Her Majesty, Chapter Seventy-eight, and all the Provisions of the said Acts, save in so far as they are varied by this Act, shall apply to Persons and Companies applying for or obtaining a Certificate of Complete Registration with Limited Liability.

Act not to apply to Scotland.

XIII. This Act shall not apply to Scotland.

Short Title.

XIV. This Act may be cited for all Purposes as "The Limited Liability Act, 1855."

Limited Liability.

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BILL

[AS AMENDED IN COMMITTEE AND ON RE-COMMITMENT]

For limiting the Liability of Members of certain Joint Stock Companies.

(*Prepared and brought in by Mr. FitzRoy, Mr. Bouverie, and Viscount Palmerston.*)

Ordered, by The House of Commons, *to be Printed*, 31 *July* 1855.

[Bill 279.]

Under 1 *oz.*

Loan Bill.

ARRANGEMENT OF CLAUSES.

Contributors entitled to 100*l.* in the Three per Cent. Consols, and to an Annuity of 14*s.* 6*d.* for 30 Years; Sect. 1.

Contributors who have made Deposits to pay the Remainder of Subscriptions by Instalments; 2.

Guardians may subscribe for Infants; 3.

Contributors entitled to certain Annuities payable half-yearly; 4.

Time at which Stock may be transferred; 5.

Contributors may anticipate Payments; 6.

Commencement of Dividends; 7.

Annuities payable and transferable at the Bank; 8.

Money to be issued out of the Consolidated Fund for Payment of Annuities and Charges in respect of 16,000,000*l.*; 9.

and shall be charged upon the said Fund; 10.

The Bank to appoint a Cashier and an Accountant General, and the Treasury to order Money to be issued to the Cashier for Payment of Annuities; 11.

Cashier to give Receipt for Subscriptions, which may be assigned before December 18, 1855.—Cashier to give Security for paying the Money he receives into the Exchequer; 12.

A Book to be kept in the Accountant General's Office for entering Contributors Names, a Duplicate whereof to be transmitted to the Exchequer; 13.

Subscriptions paid in Part and not completed, forfeited; 14.

Annuities to be deemed Personal Estate; 15.

Treasury may apply the Money paid into the Exchequer; 16.

Accountant General to keep Books for entering Transfers.—Transfers not liable to Stamp Duties; 17.

Treasury to defray Incidents; 18.

Allowance for the Expense of Management; 19.

Three per Cent. Annuities shall be added to the Joint Stock of the Three per Cent Consols; 20.

Terminable Annuities created by this Act may be transferred to and from England and Ireland; 21.

Sinking Fund; 22.

Persons counterfeiting Receipts for Contributions, &c. guilty of Felony; 23.

Bank to continue a Corporation till the Annuities hereby granted cease; 24.

No Fee to be taken for receiving Contributions or paying or transferring Annuities, on Penalty of 20*l.*; 25.

Persons sued may plead the General Issue; 26.

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BILL

FOR

Raising a Sum of Money by way of Annuities.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal Subjects, the Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled, being desirous to raise the necessary Supplies which we have cheerfully granted to Your Majesty in this Session of Parliament, have resolved, That the Sum of *Sixteen Millions* be raised by Annuities in manner herein-after mentioned, and do therefore most humbly beseech Your Majesty that it may be enacted; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Contributors entitled to 100*l.* in the Three per Cent. Consols, and to an Annuity of 14*s.* 6*d.* for 30 Years.

I. Every Contributor towards raising the said Sum of *Sixteen Millions* shall for every One hundred Pounds contributed and paid be entitled to the Principal Sum of One hundred Pounds in Consolidated Annuities, after the Rate of Three Pounds per Centum, to commence from the Fifth Day of January One thousand eight hundred and fifty-five, and shall also be entitled to a further Annuity of *Fourteen Shillings and Sixpence* for a Term of Thirty Years, to com-

mence from the Fifth Day of April One thousand eight hundred and fifty-five.

Contributors who have made Deposits to pay the Remainder of Subscriptions by Instalments.

II. And whereas, pursuant to and upon the Terms and Conditions expressed in the said Resolution, several Persons have, in Books opened at the Bank of England for that Purpose, subscribed together the whole of the said Sum of *Sixteen Millions* to be raised by Annuities, and made Deposits of Ten Pounds per Centum on the respective Sums by them so subscribed to the said Sum of *Sixteen Millions* to be raised by Annuities with the Cashiers of the Governor and Company of the Bank of England:

It shall and may be lawful to and for such Contributors who have made such Deposits with the Cashier or Cashiers of the Governor and Company of the Bank of England (which Cashier or Cashiers is and are hereby appointed the Receiver and Receivers of such Contributions, without any other Warrant to be had in that Behalf,) to advance and pay unto the said Cashier or Cashiers of the Governor and Company of the Bank of England the several Remainders of the Sums by them respectively subscribed towards the said Sum of *Sixteen Millions*, at or before the respective Days and Times and in the Proportions herein-after limited and appointed in that Behalf; (that is to say,) the further Sum of Fifteen Pounds per Centum on or before the Twenty-second Day of May One thousand eight hundred and fifty-five; the further Sum of Ten Pounds per Centum on or before the Nineteenth Day of June then next following; the further Sum of Fifteen Pounds per Centum on or before the Seventeenth Day of July then next following; the further Sum of Ten Pounds per Centum on or before the Twenty-first Day of August then next following; the further Sum of Ten Pounds per Centum on or before the Eighteenth Day of September then next following; the further Sum of Ten Pounds per Centum on or before the Sixteenth Day of October then next following; the further Sum of Ten Pounds per Centum on or before the Twentieth Day of November then next following; and the remaining Sum of Ten Pounds per Centum on or before the Eighteenth Day of December then next following.

Guardians may subscribe for Infants.

III. It shall and may be lawful for any Guardian or Trustee having the Disposition of the Money of any Infant to contribute and pay for or towards advancing the said Sum of *Sixteen Millions* to be raised by Annuities in manner aforesaid, and such Infant, upon the Payment of such Sum or Sums subscribed by such Guardian or Trustee, shall become a Contributor within the Meaning of this Act, and be entitled to have and receive the Annuities, Advantages, and Payments in respect thereof, in such and the like Manner as any other

other Contributor; and the said Guardian and Trustee as to the said Sum or Sums so advanced is hereby discharged, so as the Name of such Infant be expressed in the Receipt or Receipts for such Money.

Contributors entitled to certain Annuities payable half-yearly.

IV. The several Subscribers or Contributors, their Executors, Administrators, Successors, and Assigns, in respect of the said Sum of *Sixteen Millions*, shall be entitled, for every One hundred Pounds by him, her, or them respectively advanced and paid, to an Annuity after the Rate of Three Pounds per Centum, to commence from the Fifth Day of January One thousand eight hundred and fifty-five, until Redemption by Parliament in manner herein-after mentioned, and also to an Annuity of *Fourteen Shillings and Sixpence* for the Term of Thirty Years from the Fifth Day of April One thousand eight hundred and fifty-five, and no longer, which said respective Annuities shall be payable and paid half-yearly by even and equal Portions; that is to say, the said Annuity after the Rate of Three Pounds per Centum on the Fifth Day of July and the Fifth Day of January in every Year, and the said Annuity of Fourteen Shillings and Sixpence on the Fifth Day of April and Tenth Day of October in every Year, the first Payment of each of the said Annuities to be due on the Days herein-after appointed for that Purpose.

Time at which Stock may be transferred.

V. As soon as any Contributors, their Executors, Administrators, Successors, or Assigns, shall, after Payment of the Deposit of Ten per Centum, have made Payment of any subsequent Instalment payable by them respectively on the Days specified in this Act towards the said Sum of *Sixteen Millions*, such Contributors may have a proportional Amount of Stock in Consolidated Three Pounds per Centum Annuities, and of the said Terminable Annuity in respect of such Instalment, forthwith placed in the Books of the Bank of England to the Credit of such respective Contributors, their Executors, Administrators, Successors, and Assigns; and on Payment of the last Instalment, such Contributors, their Executors, Administrators, Successors, and Assigns, shall have a proportional Amount of like Stock and of the said Terminable Annuity placed to their respective Credits, corresponding, at the Rate aforesaid, to the aggregate Amount of the Deposit and of such last Instalment; and the Persons to whose Credit such Consolidated Annuities and Terminable Annuity, or such proportional Parts thereof, shall be so placed, their respective Executors, Administrators, Successors, and Assigns, shall and may have Power to assign and transfer the same, or any Part, Share, or Proportion thereof, to any other Person or Persons, Body or Bodies Politic or Corporate, whatsoever, in the Books of the Bank of England; and the said Governor and Company of the Bank of

England are hereby required, as soon as conveniently may be after the passing of this Act, to prepare proper Books for the Purpose of entering the Names of all such Contributors, and of placing to their Credit the Principal Sums so paid by them respectively; and such Stock shall carry the Annuities after the Rate of Three Pounds per Centum per Annum, to be payable under this Act, until Redemption thereof in such Manner as is herein-after mentioned, and, together with the said Terminable Annuities created under this Act, shall be transferable as this Act directs, and not otherwise.

Contributors may anticipate Payments.

VI. All and every such Contributor or Contributors, his, her, or their Executors, Administrators, Successors, and Assigns, who shall pay into the Hands of the said Cashier or Cashiers the whole of his, her, or their Contribution Money, or any Part thereof, in anticipation of the said Instalments or any of them, shall be entitled to have forthwith inscribed into his, her, or their Names the whole or such proportional Amount of the said Three Pounds per Centum Annuities, and of the said Terminable Annuity; but Discount shall not be allowed on any such Payment in anticipation of any of the said Instalments.

Commencement of Dividends.

VII. The First Half Year's Payment of the said Annuity after the Rate of Three Pounds per Centum shall be due on the Fifth Day of July One thousand eight hundred and fifty-five on all Sums of Three Pounds per Centum Annuities written into the Books of the Bank of England, under the Authority of this Act, not later than the preceding Twenty-fifth Day of June, and the First Half Year's Payment of the said Terminable Annuity shall be due on the Tenth Day of October One thousand eight hundred and fifty-five in respect of every such Terminable Annuity written into the Books of the Bank of England not later than the Twenty-fifth Day of September preceding; and in respect of all Sums of Three Pounds per Centum Annuities written into the said Books as aforesaid after the said Twenty-fifth Day of June One thousand eight hundred and fifty-five One Year's Annuity shall be due on the Fifth Day of January One thousand eight hundred and fifty-six, and in respect of every such Terminable Annuity so written in after the Twenty-fifth Day of September One Year's Annuity shall be due on the Fifth Day of April One thousand eight hundred and fifty-six.

Annuities payable and transferable at the Bank.

VIII. All the Annuities aforesaid shall be payable and paid and be transferable at the Bank of England; and the Three per Centum Annuities aforesaid shall be subject to such Redemption as is herein-after mentioned.

IX. So

Money to be issued out of the Consolidated Fund for Payment of Annuities and Charges in respect of 16,000,000*l.*,

IX. So much Money shall from Time to Time be set apart and issued at the Receipt of the Exchequer out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland to the said Cashier or Cashiers of the Governor and Company of the Bank of England, as shall be sufficient to satisfy and pay the respective Annuities to be created in respect of the said Sum of *Sixteen Millions*, together with the Charges attending the same.

and shall be charged upon the said Fund.

X. All the said Annuities, Interest, and Dividends which shall become payable in respect of the said Sum of *Sixteen Millions* shall be charged and chargeable upon, and are hereby charged upon and made payable out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

The Bank to appoint a Cashier and an Accountant General, and the Treasury to order Money to be issued to the Cashier for Payment of Annuities.

XI. For the more easy and sure Payment of all the Annuities established by this Act, the said Governor and Company of the Bank of England, and their Successors, shall from Time to Time, until all the said Annuities shall be redeemed, or shall cease, appoint and employ One or more sufficient Person or Persons within their Office in the City of London to be their Chief or First Cashier or Cashiers, and One other sufficient Person within the same Office to be their Accountant General; and so much of the Monies by this Act appropriated for the Purpose as shall be sufficient from Time to Time to answer the said Annuities and other Payments herein directed to be made out of the said Monies, in respect of the said Sum of *Sixteen Millions*, shall, by Order of the Commissioners of Her Majesty's Treasury, without any further Warrant to be sued for, had, or obtained in that Behalf, from Time to Time, at the respective Days of Payment in this Act appointed for Payment thereof, be issued and paid at the Receipt of the Exchequer to the said First or Chief Cashier or Cashiers of the said Governor and Company of the Bank of England, and their Successors for the Time being, by way of Imprest and upon Account for the Payment of the Annuities in respect of the said Sum of *Sixteen Millions* payable by virtue of this Act; and such Cashier or Cashiers, to whom the said Money shall from Time to Time be issued, shall from Time to Time, without Delay, pay the same accordingly, and render his or their Accounts thereof according to the due Course of the Exchequer; and the said Accountant General for the Time being shall, from Time to Time, inspect and examine all Receipts and Payments of the said Cashier or Cashiers, and the Vouchers relating thereto, in order to prevent any Fraud, Negligence, or Delay.

Cashier to give Receipt for Subscriptions, which

XII. The Cashier or Cashiers of the Governor and Company of the Bank of England who shall have received or shall receive any Part of the said Contributions towards the said Sum of *Sixteen*

may be assigned before December 18, 1855.

Millions, shall give a Receipt or Receipts in Writing to every such Contributor for all such Sums; and the Receipts so to be given shall be assignable at any Time before the Eighteenth Day of December One thousand eight hundred and fifty-five, and no longer:

Cashier to give Security for paying the Money he receives into the Exchequer.

Provided always, that such Cashier or Cashiers shall give Security to the good liking of any Two or more of the Commissioners of Her Majesty's Treasury, for duly answering and paying into the Receipt of the Exchequer as after mentioned, for the Public Use, all the Monies which he or they has or have already received, and shall hereafter receive from Time to Time, of and for the whole of the said Sum of *Sixteen Millions*, and for accounting duly for the same, and for Performance of the Trust hereby in him or them reposed, and shall from Time to Time pay all such Monies as soon as he or they shall receive the same, or any Part thereof, or within Five Days afterwards at the farthest, into, and shall account for the same in the Exchequer, according to the due Course thereof, deducting thereout such Sums as shall have been paid by him or them in pursuance of this Act, for which Sums so paid Allowance shall be made in his or their Accounts.

A Book to be kept in the Accountant General's Office for entering Contributors Names, a Duplicate whereof to be transmitted to the Exchequer.

XIII. In the Office of the Accountant General of the Governor and Company of the Bank of England for the Time being, a Book or Books shall be provided and kept, in which the Names of the Contributors shall be fairly entered; which Book or Books the said respective Contributors, their respective Executors, Administrators, Successors, and Assigns, shall and may from Time to Time, and at all seasonable Times, resort to and inspect without any Fee or Charge; and the said Accountant General shall, on or before the Fifth Day of July One thousand eight hundred and fifty-six, transmit an attested Duplicate, fairly written on Paper, of the said Book or Books into the Office of the Receipt of the Exchequer, there to remain for ever.

Subscriptions paid in Part and not completed, forfeited.

XIV. In case any such Contributors who have already deposited with or shall hereafter pay to the said Cashier or Cashiers any Sum or Sums of Money at the Time and in the Manner hereinbefore mentioned, in Part of the Sum or Sums so by them respectively subscribed, or their respective Executors, Administrators, Successors, or Assigns, shall not advance and pay to the said Cashier or Cashiers the Residue of the Sum or Sums so subscribed at the Times and in the Manner before mentioned, then and in every such Case the aforesaid Deposit of Ten Pounds per Centum shall be forfeited for the Benefit of the Public, and all Right and Title to the said Ten Pounds per Centum Deposit, and to the Annuities in respect thereof, shall be extinguished; anything in this Act contained to the contrary thereof in anywise notwithstanding.

XV. All

XV. All Persons and Corporations who shall be entitled to any of the Annuities hereby granted in respect of the said Sum of *Sixteen Millions*, and all Persons and Corporations lawfully claiming under them, shall be possessed thereof as of a Personal Estate, which shall not be descendible to Heirs, nor liable to any Foreign Attachment by the Custom of London, or otherwise; any Law, Statute, or Custom to the contrary notwithstanding.

Annuities to be deemed Personal Estate.

XVI. It shall be lawful for the Commissioners of Her Majesty's Treasury to issue and apply from Time to Time all such Sums of Money as shall be so paid into the Receipt of Her Majesty's Exchequer by the said Cashier or Cashiers, in respect of the said Sum of *Sixteen Millions*, to such Services as have been or shall be voted by the Commons of the United Kingdom of Great Britain and Ireland, in this present Session of Parliament; and to pay off and discharge the Principal Sum or Sums of Money contained in such Exchequer Bills as have been or may be made forth by virtue of an Act passed in the Fifty-seventh Year of the Reign of King George the Third, intituled "An Act to make further Provision for the Adjustment of the "Accounts of the Consolidated Fund of the United Kingdom, and "for making good any occasional Deficiency which may arise in the "said Fund in Great Britain or Ireland respectively, and to direct "the Application of Monies by the Commissioners for the Reduction "of the National Debt," together with the Interest thereon; and also to pay off and discharge the Principal Sum or Sums of Money contained in any other Exchequer Bills made forth by virtue of any Act or Acts passed or to be passed in the present Session of Parliament, which have been or may be issued and made chargeable and charged upon the growing Produce of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, together with the Interest thereon.

Treasury may apply the Money paid into the Exchequer.

57 G. 3. c. 48.

XVII. Books shall be constantly kept by the said Accountant General for the Time being, wherein all Assignments or Transfers of all Sums of Stock in the Consolidated Three Pounds per Centum Annuities created under this Act, and of the said Terminable Annuities, shall be entered and registered, which Entry shall be conceived in proper Words for that Purpose, and shall be signed by the Parties making such Assignments or Transfers, or if such Parties be absent, by their respective Attorney or Attornies thereunto lawfully authorized in Writing under his or their Hand and Seal, or Hands and Seals, to be attested by Two or more credible Witnesses; and the several Persons to whom such Transfers shall be made may respectively underwrite their Acceptance thereof, and no other Method of assigning and transferring the said Stock or Annuities, or any

Accountant General to keep Books for entering Transfers.

Transfers not liable to Stamp Duties.

Part thereof, or any Interest therein, shall be good or available in Law; and no Stamp Duties whatsoever shall be charged on any of the said Transfers, any Law or Statute to the contrary notwithstanding.

Treasury to defray Incidents.

XVIII. Out of the Monies arising from the Contributions towards raising the said Sum of *Sixteen Million* by Annuities, the Commissioners of Her Majesty's Treasury shall have Power to discharge all such incident Charges as shall necessarily attend the Execution of this Act, in such Manner as to them shall seem just and reasonable.

Allowance for the Expense of Management.

XIX. It shall be lawful to and for the Governor and Company of the Bank of England to retain out of the said Contributions at the Rate of Three hundred Pounds for every Million thereof as an Allowance for the Service, Pains, and Labour of the said Cashier or Cashiers employed in receiving, paying, and accounting for the same; and also for the Service, Pains, and Labour of the said Accountant General for performing the Trust reposed in him by this Act, which Allowance, in respect of the Service, Pains, and Labour of the said Cashier or Cashiers and Accountant General of the said Governor and Company, shall be for the Use of the said Governor and Company, and at their Disposal only.

Three per Cent. Annuities shall be added to the Joint Stock of the Three per Cent. Consols.

XX. All the Annuities after the Rate of Three Pounds per Centum per Annum to which any Person or Persons shall become entitled by virtue of this Act, in respect of any Sum advanced or contributed towards the said Sum of *Sixteen Millions*, shall be added to the Joint Stock of Annuities transferable at the Bank of England, into which the several Sums carrying an Interest after the Rate of Three Pounds per Centum per Annum were by several Acts made in the Twenty-fifth, Twenty-eighth, Twenty-ninth, Thirty-second, and Thirty-third Years of the Reign of His late Majesty King George the Second, and by several subsequent Acts consolidated, and shall be deemed Part of the said Joint Stock of Annuities; subject nevertheless to Redemption by Parliament in such Manner and upon such Notice as in the said Act made in the Twenty-fifth Year of His said late Majesty's Reign is directed in respect of the several and respective Annuities redeemable by virtue of the said Act; and all and every Person and Persons and Corporation whatsoever, in Proportion to the Money to which he, she, or they shall become entitled as aforesaid by virtue of this Act, shall have and be deemed to have a proportional Interest and Share in the said Joint Stock of Annuities, at the Rates aforesaid.

Terminable Annuities created by this Act

XXI. The Terminable Annuities granted under the Provisions of this Act shall and may be transferred to and from the Books of the Governor and Company of the Bank of England to the Books of the Governor

Governor and Company of the Bank of Ireland, and vice versâ, for the Purpose of having corresponding Sums in the like Annuities written into the Books of the said respective Banks, in like Manner and under the same Regulations as any other Annuities for Terms of Years or Capital Stock are permitted to be so transferred under and by virtue of an Act passed in the Fifth Year of the Reign of King George the Fourth, intituled "An Act to permit the mutual "Transfer of Capital in certain Public Stocks or Funds transferable "at the Banks of England and Ireland respectively." may be transferred to and from England and Ireland. 5 G. 4. c. 53.

XXII. For the Purpose of the Extinction of a Sum of Consolidated Three Pounds per Centum Annuities equal to the Amount to be added to the said joint Stock as aforesaid, there shall be issued and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, or out of the growing Produce thereof, to the Commissioners for the Reduction of the National Debt, in the financial Year commencing on the First Day of April which shall first happen Twelve Months after the Ratification of a definitive Treaty of Peace with Russia, and in every subsequent Year until such Sum of Consolidated Three Pounds per Centum Annuities is extinguished, the Sum of *One Million Pounds*: Provided that in case, in the last Year in which such Sum would be payable, the Sum necessary for purchasing the remaining Portion of the said Sum of Consolidated Three Pounds per Centum Annuities be less than *One Million Pounds*, then so much only of such Sum as may be necessary for that Purpose shall be issued and paid as aforesaid; and the Sums so to be issued and paid to the Commissioners for the Reduction of the National Debt shall be applied by them from Time to Time in the Purchase of Consolidated Three Pounds per Centum Annuities, in the Manner directed by the Acts for the Reduction of the National Debt, until a Sum of *Sixteen Million Pounds* Consolidated Three Pounds per Centum Annuities has been extinguished and cancelled, and all the Consolidated Three per Centum Annuities purchased by the said Commissioners under the Authority of this Act shall from Time to Time be forthwith cancelled and extinguished, and all Dividends in respect thereof shall cease to be payable; and for the Purposes of the Acts for the Reduction of the National Debts, the Sums to be issued and paid to the said Commissioners as aforesaid shall be deemed Part of the Expenditure of the United Kingdom. Sinking Fund.

XXIII. If any Person or Persons shall forge or counterfeit, or cause or procure to be forged or counterfeited, or shall willingly act or assist in the forging or counterfeiting, any Receipt or Receipts for the whole or any Part or Parts of the said Contributions towards the said Sum of *Sixteen Millions*, either with or without Persons counterfeiting Receipts for Contributions, &c. guilty of Felony.

the Name or Names of any Person or Persons being inserted therein, as the Contributor or Contributors thereto, or Payer or Payers thereof, or of any Part or Parts thereof, or shall alter any Number, Figure, or Word therein, or utter or publish as true any such false, forged, counterfeited, or altered Receipt or Receipts, with Intent to defraud the Governor and Company of the Bank of England, or any Body Politic or Corporate, or any Person or Persons whatsoever, every such Person or Persons so forging or counterfeiting, or causing or procuring to be forged or counterfeited, or willingly acting or assisting in the forging or counterfeiting, or altering, uttering, or publishing as aforesaid, being thereof convicted in due Form of Law, shall be adjudged guilty of Felony, and shall, at the Discretion of the Court, be liable to be transported beyond the Seas for *Life* or for any Term not less than *Fourteen Years*, or to be kept in Penal Servitude for *Life* or for any Term not less than *Four Years*, or to be imprisoned, with or without Hard Labour, for any Term not exceeding *Four Years* nor less than *Two Years*.

Bank to continue a Corporation till the Annuities hereby granted cease.

XXIV. The said Governor and Company of the Bank of England, and their Successors, notwithstanding the Redemption of all or any of their own Funds, in pursuance of the Acts for establishing the same or any of them, shall continue a Corporation for the Purposes of this Act until the Consolidated Three Pounds per Centum Annuities by this Act granted shall be redeemed by Parliament as aforesaid, and the Terminable Annuities by this Act granted shall cease; and the said Governor and Company of the Bank of England, or any Member thereof, shall not incur any Disability for or by reason of their doing any Matter or Thing in pursuance of this Act.

No Fee to be taken for receiving Contributions or paying or transferring Annuities, on Penalty of *20l.*

XXV. No Fee, Reward, or Gratuity whatsoever shall be demanded or taken of any of Her Majesty's Subjects for receiving or paying the said Subscription or Contribution Monies or any of them, or for any Receipt concerning the same, or for paying the said Annuities or any of them, or for any Transfer of any Sum, great or small, to be made in pursuance of this Act, upon pain that any Officer or Person offending by taking or demanding any such Fee, Reward, or Gratuity shall for every such Offence forfeit the Sum of *Twenty Pounds* to the Party aggrieved, with full Costs of Suit, to be recovered in any of Her Majesty's Superior Courts of Law at Westminster.

Persons sued may plead the General Issue.

XXVI. If any Person or Persons shall be sued, molested, or prosecuted for anything done by virtue or in pursuance of this Act, such Person or Persons shall and may plead the General Issue, and give this Act and the special Matter in Evidence, in his, her, or their Defence

Defence or Defences; and if afterwards a Verdict shall pass for the Defendant or Defendants, or Plaintiff or Plaintiffs shall discontinue his, her, or their Action or Prosecution, or be nonsuited, or Judgment shall be given against him, her, or them, upon Demurrer or otherwise, then such Defendant or Defendants shall have full Costs awarded to him, her, or them, against any such Plaintiff or Plaintiffs.

Loan.

A

BILL

For raising a Sum of Money by way of Annuities.

(*Prepared and brought in by Mr. FitzRoy, the Chancellor of the Exchequer, and Mr. Wilson.*)

Ordered, by The House of Commons, *to be Printed,* 23 *April* 1855.

Under 2 oz.

[Bill 84.]

A

BILL

INTITULED

An Act to explain and amend the Lunacy Regulation Act, 1853.

WHEREAS by the Section numbered CXXIX. of an Act passed in the Sixteenth and Seventeenth Years of the Reign of Her present Majesty, intituled "An Act for "the Regulation of Proceedings under Commissions of Lunacy, "and the Consolidation and Amendment of the Acts respecting "Lunatics so found by Inquisition, and their Estates," it was enacted, that where a Lunatic is seised or possessed of or entitled to Land in Fee or in Tail, or to Leasehold Land for an absolute Interest, and it appears to the Lord Chancellor, intrusted as in the said Act mentioned, to be for his Benefit that a Lease or Underlease should be made thereof for Terms of Years, for encouraging the Erection of Buildings thereon, or for repairing Buildings actually being thereon, or otherwise improving the same, or for Farming or other Purposes, the Committee of the Estate may, in the Name and on behalf of the Lunatic, under Order of the Lord Chancellor, intrusted as aforesaid, make such Leases of the Land or any Part thereof, according to the Lunatic's Estate and Interest therein, and to the Nature of the Tenure thereof, for such Term or Terms of Years, and subject to such Rents and Covenants, as the Lord Chancellor, intrusted as aforesaid, shall order: And whereas it has been considered that the Lord Chancellor, intrusted Preamble.

as

as aforesaid, cannot by Force of the said Enactment empower the Committee of a Lunatic Tenant in Tail to grant Leases as extensively as was intended by the said Enactment, which will bind his Issue in Tail and the Remaindermen: And whereas it is expedient to explain and enlarge the Power of the Lord Chancellor, intrusted as aforesaid, in the Matter aforesaid: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Lord Chancellor, in Matters of Lunacy, enabled to empower Committees of Estates to grant Leases binding on Issue or Remaindermen.

I. Where a Lunatic is seised of or entitled to Land in Tail, and it appears to the Lord Chancellor, intrusted as aforesaid, to be for his Benefit, the Committee of the Estate may in the Name and on behalf of the Lunatic, under Order of the Lord Chancellor, intrusted as aforesaid, make any such Leases of the Land or any Part thereof as in the said Section of the said Act are mentioned, and every such Lease shall be good and effectual in Law against the Lunatic and his Heirs, and all Persons claiming the Lands entailed by force of any Estate Tail which shall be vested in such Lunatic, and also against all Persons, including the Queen's most Excellent Majesty, Her Heirs and Successors, whose Estates are to take effect after the Determination of or in remainder or reversion expectant upon such Estate Tail, according to such Estate as is comprised and specified in every such Lease, in like Manner as the same would have been good and effectual in Law if the Lunatic at the Time of the making of such Leases had been lawfully seised of the same Lands comprised in such Lease of a pure Estate in Fee Simple to his own Use, and had been of sound Mind, and not the Subject of a Commission of Lunacy, and had himself granted such Lease; and every Person to whom from Time to Time the Reversion expectant upon the Lease shall belong after the Death of the Lunatic shall and may have such and the like Remedies and Advantages, to all Intents and Purposes, against the Lessee, his Executors, Administrators, and Assigns, as the Lunatic or his Committee would or might have had against him or them: And the Powers given by Sections numbered CXXX. and CXXXI. of the said recited Act shall and are to operate as extensively as the Power given by the said Section CXXIX. of the said Act as explained and enlarged by this Act.

Interpretation.

II. Where any of the Expressions in this Act are used in the said recited Act they shall receive the same Interpretation in this Act as by the said recited Act is imposed upon them.

Lunacy Regulation Act, 1853, Amendment.

A

B I L L

INTITULED

An Act to explain and amend the Lunacy Regulation Act, 1853.

(*Brought from the Lords* 5 *March* 1855.)

Ordered, by The House of Commons, *to be Printed*, 6 *March* 1855.

[Bill 51.]

Lunatic Asylums and Regulations Acts Amendment Bill.

ARRANGEMENT OF CLAUSES.

Any single County or Borough may unite with the Subscribers to a Hospital, and any Committee of Visitors of an existing Asylum may so unite; Sect. 1.

The Proportion of Expenses between any County and Borough may be fixed with reference to Accommodation likely to be required; 2.

Agreements for uniting to be hereafter entered into to stipulate for Contribution by Counties and Boroughs according to their relative Populations for the Time being, where not fixed according to foregoing Provision; 3.

Where Expenses are to be contributed in proportion to Population, the same to be ascertained by last Census for the Time being; 4.

Where there is a Dissolution of a Union, a new Asylum to be provided; 5.

Provisions to apply to Councils of Boroughs where they have taken upon themselves the Execution of the Lunatic Asylums Act, 1853; 6.

Powers given by Sect. 77. of Lunatic Asylums Act, 1853, to Visitors of an Asylum to order Removal of Pauper Lunatics extended; 7.

Powers of Commissioners and Visitors to continue applicable to a House which has been licensed after Expiration of Licence, while any Patients are therein; 8.

Act to be read with the Acts amended as One Act; 9.

A

BILL

TO

Amend the Lunatic Asylums Act, 1853, and the Acts passed in the Ninth and Seventeenth Years of Her Majesty, for the Regulation of the Care and Treatment of Lunatics.

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Any single County or Borough may unite with the Subscribers to a Hospital, and any Committee of Visitors of an existing Asylum may so unite.

I. Section Three of the Lunatic Asylums Act, 1853, shall extend to empower the Justices of any One County or Borough to authorize any Committee of Justices elected for such County or Borough thereunder to treat and enter into an Agreement for uniting with the Subscribers to any such Hospital as therein mentioned, and it shall not be necessary that any other County or Borough be a Party to such Agreement; and Section Five of the said Act shall extend to empower any such Committee of Visitors as therein mentioned to enter into an Agreement for uniting with the Subscribers to any such Hospital alone.

The Proportion of Expenses between any County and Borough may be fixed with reference to Accommodation likely to be required.

II. When Two or more Committees agree to unite under the Lunatic Asylums Act, 1853, or under that Act as amended by this Act, the Proportion in which the Expenses of carrying into execution the Purposes of the said Act shall be charged upon and raised by each County and Borough so uniting may be calculated and fixed according to the Extent of the Accommodation which in the Judgment of the Committees entering into such Agreement will be required for the Pauper Lunatics of such County and Borough respectively; and the Power in Section Sixteen of the Lunatic Asylums Act, 1853, of repealing or altering the Stipulations of any Agreement for uniting, shall extend to authorize the Alteration thereof by readjusting the Proportions in which the Expenses aforesaid shall be charged on each County and Borough and the Subscribers (if any) uniting, or any of the said Parties, and, where the Committee of Visitors think fit, by fixing as aforesaid, according to the probable Extent of Accommodation required, the Proportion in which each County and Borough is to contribute to such Expenses; and where the Proportions of any Contributions are fixed according to the probable Extent of Accommodation required as aforesaid the Agreement shall specify that such Proportions are fixed according to that Basis.

Agreements for uniting to be hereafter entered into to stipulate for Contribution by Counties and Boroughs according to their relative Populations for the Time being, where not fixed according to foregoing Provision.

III. Where an Agreement for uniting is hereafter entered into under the Lunatic Asylums Act, 1853, or under that Act as amended by this Act, and the Proportion in which the Expenses of carrying the Purposes of the said Act into execution are to be charged upon each County and Borough is not fixed, under the foregoing Provision, with reference to the probable Extent of Accommodation required, the Agreement shall stipulate that such Expenses, or, where any Committee of Subscribers of a Lunatic Hospital are a Party to the Agreement, then that the aggregate Amount to be contributed by the Counties and Boroughs towards such Expenses, shall be from Time to Time charged upon and raised by the Counties and Boroughs in proportion to their respective Populations as stated in the last Return for the Time being made of the same under the Authority of Parliament, and such Agreement shall be varied from the Form in Schedule (A.) to the Lunatic Asylums Act, 1853, accordingly.

Where Expenses are to be contributed in proportion to Population, the same to be ascertained by last Cen-

IV. Where an Agreement for uniting has been already entered into under the Lunatic Asylums Act, 1853, or any former Act, the Expenses of carrying into execution any such Act, or, where any Committee of Subscribers is a Party to the Agreement, the aggregate Amount to be contributed by such Counties and Boroughs, shall be from Time to Time charged upon and raised by the Counties and Boroughs united in proportion to their respective Populations as stated

stated in the last Return for the Time being made of the same under the Authority of Parliament, save where such Expenses are adjusted and fixed under the foregoing Provision according to the probable Extent of Accommodation required.

sus for the Time being.

V. To the Intent that due Provision may be made for the Reception and Care of the Pauper Lunatics of Counties and Boroughs Parties to Unions, upon the Dissolution of such Unions; the Justices of every County and Borough united (either alone or with any Subscribers,) shall, before any Dissolution of their Union takes effect, at a General or Quarter Sessions for such County, or at a Special Meeting of the Justices of such Borough, (as the Case may require,) elect a Committee to provide an Asylum for their County or Borough, and authorize such Committee to proceed for that Purpose in manner by the Lunatic Asylums Act, 1853, provided in the Case of a County or Borough not having an Asylum; and all the Provisions of the said Act and this Act applicable to a Committee elected to provide an Asylum in the Case of a County or Borough not having an Asylum shall be applicable to the Committee elected under this Provision.

Where there is a Dissolution of a Union a new Asylum to be provided.

VI. Where the Council of a Borough has taken upon itself, under the Lunatic Asylums Act, 1853, the Duties, Powers, and Authorities imposed or conferred upon or given to the Justices of the Borough, such Council shall be subject to and have and exercise the Duties, Powers, and Authorities by this Act imposed or conferred upon the Justices of a Borough, or any Committee elected by them; and such Council may confer upon any Committee appointed by them such of the said Duties, Powers, and Authorities as under this Act are or may be conferred upon a Committee elected by the Justices of a Borough.

Provisions to apply to Councils of Boroughs where they have taken upon themselves the Execution of the Lunatic Asylums Act, 1853.

VII. The Power given by Section Seventy-seven of the Lunatic Asylums Act, 1853, to any Two of the Visitors of any Asylum, being Justices, to order any Pauper Lunatic chargeable to any Parish or Union within the County or Borough, or any County or Borough to which such Asylum wholly or in part belongs, or to any such County, and who may be confined in any other Asylum, or in any registered Hospital or licensed House, to be removed to such first-mentioned Asylum, shall be extended so as to authorize such Visitors to order any Pauper Lunatic chargeable to any Parish or Union within any County or Borough, or to any County for the Reception of the Pauper Lunatics whereof into such first-mentioned Asylum there is a subsisting Contract, and who may be confined as aforesaid, to be removed to such first-mentioned Asylum, and also to order any

Powers given by Sect. 77. of Lunatic Asylums Act, 1853, to Visitors of an Asylum to order Removal of Pauper Lunatics extended.

such Pauper Lunatic as herein-before mentioned to be removed from such first-mentioned Asylum to any Asylum, registered Hospital, or licensed House, subject nevertheless to the Restriction contained in Section Seventy-eight of the Lunatic Asylums Act, 1853.

Powers of Commissioners and Visitors to continue applicable to a House which has been licensed after Expiration of Licence, while any Patients are therein.

VIII. The Powers of the Commissioners and Visitors under the Lunatic Asylums Act, 1853, and the Acts of the Eighth and Ninth Years of Her Majesty, Chapter One hundred, and the Sixteenth and Seventeenth Years of Her Majesty, Chapter Ninety-six, with reference to any licensed House and the Inmates thereof, and all Powers and Provisions of the said Acts having reference to the Discharge, Removal, and Transfer of such Inmates, shall, after the Expiration or Revocation of any Licence granted in respect of such House, continue in force for all Purposes, so long as any Lunatics are detained therein, in the same Manner as if the Licence subsisted.

Act to be read with the Acts amended as One Act.

IX. This Act, so far as the same amends or affects the said Acts of the Eighth and Ninth Years of Her Majesty, Chapter One hundred, and of the Sixteenth and Seventeenth Years of Her Majesty, Chapter Ninety-six, or either of them, shall be read and construed together with the said Acts as One Act, and the Provision contained in Section One hundred and six of the said Act of the Eighth and Ninth Years of Her Majesty shall extend to Offences against this Act; and this Act, so far as the same amends or affects the Lunatic Asylums Act, 1853, shall be read and construed therewith as One Act.

Lunatic Asylums and Regulations Acts Amendment.

A

B I L L

To amend the Lunatic Asylums Act, 1853, and the Acts passed in the Ninth and Seventeenth Years of Her Majesty, for the Regulation of the Care and Treatment of Lunatics.

(*Prepared and brought in by Sir George Grey and Mr. Cowper.*)

Ordered, by The House of Commons, *to be Printed*, 29 *June* 1855.

[Bill 207.]

Under 1*oz.*

Lunatic Asylums and Regulations Acts Amendment Bill.

[AS AMENDED IN COMMITTEE.]

ARRANGEMENT OF CLAUSES.

Any single County or Borough may unite with the Subscribers to a Hospital, and any Committee of Visitors of an existing Asylum may so unite; Sect. 1.

The Proportion of Expenses between any County and Borough may be fixed with reference to Accommodation likely to be required; 2.

Agreements for uniting to be hereafter entered into to stipulate for Contribution by Counties and Boroughs according to their relative Populations for the Time being, where not fixed according to foregoing Provision; 3.

Where Expenses are to be contributed in proportion to Population, the same to be ascertained by last Census for the Time being; 4.

Where there is a Dissolution of a Union, a new Asylum to be provided; 5.

Provisions to apply to Councils of Boroughs where they have taken upon themselves the Execution of the Lunatic Asylums Act, 1853; 6.

Clause A. Places becoming Boroughs after the Commencement of the Lunatic Asylums Act, 1853, to be deemed Boroughs annexed to the Counties in which they are situate; 7.

Powers given by Sect. 77. of Lunatic Asylums Act, 1853, to Visitors of an Asylum to order Removal of Pauper Lunatics, extended; 8.

Powers of Commissioners and Visitors to continue applicable to a House which has been licensed after Expiration of Licence, while any Patients are therein; 9.

Clause B. Contracts under Forty-second Section of Lunatic Asylums Act, 1853, may be renewed; 10.

Clause C. Provision for Burial of Pauper Lunatics; 11.

Clause D. Power to enter into Agreements with Cemetery Company or Burial Board; 12.

Act to be read with the Acts amended as One Act; 13.

A

B I L L

[AS AMENDED IN COMMITTEE]

TO

Amend the Lunatic Asylums Act, 1853, and the Acts passed in the Ninth and Seventeenth Years of Her Majesty, for the Regulation of the Care and Treatment of Lunatics.

[Note.—*The Clauses* A. *to* D. *were added in Committee.*]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Any single County or Borough may unite with the Subscribers to a Hospital, and any Committee of Visitors of an existing Asylum may so unite

I. Section Three of the Lunatic Asylums Act, 1853, shall extend to empower the Justices of any One County or Borough to authorize any Committee of Justices elected for such County or Borough thereunder to treat and enter into an Agreement for uniting with the Subscribers to any such Hospital as therein mentioned, and it shall not be necessary that any other County or Borough be a Party to such Agreement; and Section Five of the said Act shall extend to empower any such Committee of Visitors as therein mentioned to enter into an Agreement for uniting with the Subscribers to any such Hospital alone.

The Proportion of Expenses between any County and Borough may be fixed with reference to Accommodation likely to be required.

II. When Two or more Committees agree to unite under the Lunatic Asylums Act, 1853, or under that Act as amended by this Act, the Proportion in which the Expenses of carrying into execution the Purposes of the said Act shall be charged upon and raised by each County and Borough so uniting may be calculated and fixed according to the Extent of the Accommodation which in the Judgment of the Committees entering into such Agreement will be required for the Pauper Lunatics of such County and Borough respectively; and the Power in Section Sixteen of the Lunatic Asylums Act, 1853, of repealing or altering the Stipulations of any Agreement for uniting, shall extend to authorize the Alteration thereof by readjusting the Proportions in which the Expenses aforesaid shall be charged on each County and Borough and the Subscribers (if any) uniting, or any of the said Parties, and, where the Committee of Visitors think fit, by fixing as aforesaid, according to the probable Extent of Accommodation required, the Proportion in which each County and Borough is to contribute to such Expenses; and where the Proportions of any Contributions are fixed according to the probable Extent of Accommodation required as aforesaid the Agreement shall specify that such Proportions are fixed according to that Basis.

Agreements for uniting to be hereafter entered into to stipulate for Contribution by Counties and Boroughs according to their relative Populations for the Time being, where not fixed according to foregoing Provision.

III. Where an Agreement for uniting is hereafter entered into under the Lunatic Asylums Act, 1853, or under that Act as amended by this Act, and the Proportion in which the Expenses of carrying the Purposes of the said Act into execution are to be charged upon each County and Borough is not fixed, under the foregoing Provision, with reference to the probable Extent of Accommodation required, the Agreement shall stipulate that such Expenses, or, where any Committee of Subscribers of a Lunatic Hospital are a Party to the Agreement, then that the aggregate Amount to be contributed by the Counties and Boroughs towards such Expenses, shall be from Time to Time charged upon and raised by the Counties and Boroughs in proportion to their respective Populations as stated in the last Return for the Time being made of the same under the Authority of Parliament, and such Agreement shall be varied from the Form in Schedule (A.) to the Lunatic Asylums Act, 1853, accordingly.

Where Expenses are to be contributed in proportion to Population, the same to be ascertained by last Cen-

IV. Where an Agreement for uniting has been already entered into under the Lunatic Asylums Act, 1853, or any former Act, the Expenses of carrying into execution any such Act, or, where any Committee of Subscribers is a Party to the Agreement, the aggregate Amount to be contributed by such Counties and Boroughs, shall be from Time to Time charged upon and raised by the Counties and Boroughs united in proportion to their respective Populations as stated

stated in the last Return for the Time being made of the same under the Authority of Parliament, save where such Expenses are adjusted and fixed under the foregoing Provision according to the probable Extent of Accommodation required.

sus for the Time being.

V. To the Intent that due Provision may be made for the Reception and Care of the Pauper Lunatics of Counties and Boroughs Parties to Unions, upon the Dissolution of such Unions; the Justices of every County and Borough united (either alone or with any Subscribers,) shall, before any Dissolution of their Union takes effect, at a General or Quarter Sessions for such County, or at a Special Meeting of the Justices of such Borough, (as the Case may require,) elect a Committee to provide an Asylum for their County or Borough, and authorize such Committee to proceed for that Purpose in manner by the Lunatic Asylums Act, 1853, provided in the Case of a County or Borough not having an Asylum; and all the Provisions of the said Act and this Act applicable to a Committee elected to provide an Asylum in the Case of a County or Borough not having an Asylum shall be applicable to the Committee elected under this Provision.

Where there is a Dissolution of a Union a new Asylum to be provided.

VI. Where the Council of a Borough has taken upon itself, under the Lunatic Asylums Act, 1853, the Duties, Powers, and Authorities imposed or conferred upon or given to the Justices of the Borough, such Council shall be subject to and have and exercise the Duties, Powers, and Authorities by this Act imposed or conferred upon the Justices of a Borough, or any Committee elected by them; and such Council may confer upon any Committee appointed by them such of the said Duties, Powers, and Authorities as under this Act are or may be conferred upon a Committee elected by the Justices of a Borough.

Provisions to apply to Councils of Boroughs where they have taken upon themselves the Execution of the Lunatic Asylums Act, 1853

CLAUSE A.

VII. Any Place which has become a Borough within the Definition contained in Section One hundred and thirty-two of the Lunatic Asylums Act, 1853, since the Commencement of that Act, shall, from and after the passing of this Act, be deemed to be a Borough annexed to the County in which the same is situate, and any Place which after the passing of this Act becomes a Borough within such Definition shall, from and after the Time of becoming such Borough, be deemed a Borough so annexed, and the Provisions contained in Section Nine in the Lunatic Asylums Act, 1853, for the Appointment of Two Justices of a Borough annexed thereunder to a County to be Members of the Committee of Visitors of the Asylum of such County, and in relation to the Contribution by such Borough to the Expenses of the Asylum of such County, shall extend to any Borough annexed under this Enactment.

Places becoming Boroughs after the Commencement of the Lunatic Asylums Act, 1853, to be deemed Boroughs annexed to the Counties in which they are situate.

 VIII. The

Powers given by Sect. 77. of Lunatic Asylums Act, 1853, to Visitors of an Asylum to order Removal of Pauper Lunatics extended.

VIII. The Power given by Section Seventy-seven of the Lunatic Asylums Act, 1853, to any Two of the Visitors of any Asylum, being Justices, to order any Pauper Lunatic chargeable to any Parish or Union within the County or Borough, or any County or Borough to which such Asylum wholly or in part belongs, or to any such County, and who may be confined in any other Asylum, or in any registered Hospital or licensed House, to be removed to such first-mentioned Asylum, shall be extended so as to authorize such Visitors to order any Pauper Lunatic chargeable to any Parish or Union within any County or Borough, or to any County for the Reception of the Pauper Lunatics whereof into such first-mentioned Asylum there is a subsisting Contract, and who may be confined as aforesaid, to be removed to such first-mentioned Asylum, and also to order any such Pauper Lunatic as herein-before mentioned to be removed from such first-mentioned Asylum to any Asylum, registered Hospital, or licensed House, subject nevertheless to the Restriction contained in Section Seventy-eight of the Lunatic Asylums Act, 1853.

Powers of Commissioners and Visitors to continue applicable to a House which has been licensed after Expiration of Licence, while any Patients are therein.

IX. The Powers of the Commissioners and Visitors under the Lunatic Asylums Act, 1853, and the Acts of the Eighth and Ninth Years of Her Majesty, Chapter One hundred, and the Sixteenth and Seventeenth Years of Her Majesty, Chapter Ninety-six, with reference to any licensed House and the Inmates thereof, and all Powers and Provisions of the said Acts having reference to the Discharge, Removal, and Transfer of such Inmates, shall, after the Expiration or Revocation of any Licence granted in respect of such House, continue in force for all Purposes, so long as any Lunatics are detained therein, in the same Manner as if the Licence subsisted.

Clause B. Contracts under Forty-second Section of Lunatic Asylums Act, 1853, may be renewed.

X. Whereas Doubts have been entertained whether under the Forty-second Section of the Lunatic Asylums Act, 1853, a Contract for the Reception of Pauper Lunatics thereby authorized can be renewed: Be it declared and enacted, That upon or after the Expiration or other Determination of any Contract for any of the Purposes of the said Section it shall be lawful for every Committee of Visitors, under and subject to the several Provisions of the said Act applicable thereto, from Time to Time to enter into a new Contract for any of the Purposes mentioned in the said Section with the Committee of Visitors of any Asylum, or with the Subscribers to any Hospital registered or the Proprietor of any House licensed for the Reception of Lunatics, and for the Committee of Visitors of any Asylum, or the Subscribers to any registered Hospital or the Proprietor of any licensed House, to contract with any Committee of Visitors accordingly.

XI. Where

CLAUSE C. Provision for Burial of Pauper Lunatics.

XI. Where the Visitors of Lunatic Asylums for Counties and Boroughs in England, or any of their Officers duly authorized in that Behalf, shall undertake the Burial of any Pauper Lunatic, and the Burial cannot take place in the Parish where the Death shall have taken place by reason of the public Burial Ground of such Parish having been closed, and no other having been provided, or where, in consequence of the crowded State of such Burial Ground, the Visitors as aforesaid are of opinion that the Burial of such dead Body therein would be improper, it shall be lawful to bury such Body in a public Burial Ground of or in some other Parish as near as conveniently may be to the Parish wherein the Death shall have taken place, with the Consent of the Minister and Churchwardens of such Parish: Provided, that in all Cases of Burial under the Direction of the Visitors or their Officers as aforesaid the Fee or Fees payable by the Custom of the Place where the Burial may be, or under the Provisions of any Act of Parliament, shall be paid by the said Visitors for the Burial of each such Body to the Person or Persons who by such Custom or under such Act of Parliament shall be entitled to receive such Fee or Fees.

CLAUSE D. Power to enter into Agreements with Cemetery Company or Burial Board.

XII. The Visitors of Lunatic Asylums in England may from Time to Time enter into Agreements with the Proprietors of any Cemetery established under the Authority of Parliament, or with any Burial Board duly constituted under the Statutes in that Behalf, for the Burial of the dead Bodies of any Pauper Lunatics which such Visitors may undertake to bury; and thereupon the Burial of any such Body, under the Directions of the said Visitors or their Officer, in such Cemetery, or in the Burial Ground of such Burial Board, shall be lawful: Provided, however, that no such Agreement shall be valid unless made in such Form and with such Stipulations as the Commissioners in Lunacy shall approve.

Act to be read with the Acts amended as One Act.

XIII. This Act, so far as the same amends or affects the said Acts of the Eighth and Ninth Years of Her Majesty, Chapter One hundred, and of the Sixteenth and Seventeenth Years of Her Majesty, Chapter Ninety-six, or either of them, shall be read and construed together with the said Acts as One Act, and the Provision contained in Section One hundred and six of the said Act of the Eighth and Ninth Years of Her Majesty shall extend to Offences against this Act; and this Act, so far as the same amends or affects the Lunatic Asylums Act, 1853, shall be read and construed therewith as One Act.

Lunatic Asylums and Regulations Acts Amendment.

A

B I L L

[AS AMENDED IN COMMITTEE]

To amend the Lunatic Asylums Act, 1853, and the Acts passed in the Ninth and Seventeenth Years of Her Majesty, for the Regulation of the Care and Treatment of Lunatics.

(*Prepared and brought in by Sir George Grey and Mr. Cowper.*)

Ordered, by The House of Commons, *to be Printed*, 13 *July* 1855.

[Bill 244.]

Under 1 *oz.*

Lunatic Asylums and Regulations Acts Amendment Bill.

[AS AMENDED BY THE LORDS.]

ARRANGEMENT OF CLAUSES.

Any single County or Borough may unite with the Subscribers to a Hospital, and any Committee of Visitors of an existing Asylum may so unite; Sect. 1.

The Proportion of Expenses between any County and Borough may be fixed with reference to Accommodation likely to be required; 2.

Agreements for uniting to be hereafter entered into to stipulate for Contribution by Counties and Boroughs according to their relative Populations for the Time being, where not fixed according to foregoing Provision; 3.

Where Expenses are to be contributed in proportion to Population, the same to be ascertained by last Census for the Time being; 4.

Where there is a Dissolution of a Union, a new Asylum to be provided; 5.

Provisions to apply to Councils of Boroughs where they have taken upon themselves the Execution of the Lunatic Asylums Act, 1853; 6.

Places becoming Boroughs after the Commencement of the Lunatic Asylums Act, 1853, to be deemed Boroughs annexed to the Counties in which they are situate; 7.

Powers given by Sect. 77. of Lunatic Asylums Act, 1853, to Visitors of an Asylum to order Removal of Pauper Lunatics, extended; 8.

Powers of Commissioners and Visitors to continue applicable to a House which has been licensed after Expiration of Licence, while any Patients are therein; 9.

Contracts under Forty-second Section of Lunatic Asylums Act, 1853, may be renewed; 10.

Provision for Burial of Pauper Lunatics; 11.

Power to enter into Agreements with Cemetery Company or Burial Board; 12.

Committee of Visitors may convey Land for Burial Ground for Lunatics, &c. dying in the Asylum; *Added by the Lords.*

Pauper Lunatics, whose Settlements cannot be ascertained, where found in a Borough which does not contribute to the County Expenditure, to be chargeable to such Borough; *Added by the Lords.*

Seals of Commissioners, Visitors, and Justices to Orders, &c. dispensed with; *Added by the Lords.*

So much of Sect. 6. of 16 & 17 Vict. c. 96. as requires personal Examination of Patients repealed; *Added by the Lords.*

Consent of Members of Committee of Management of any Hospital sufficient to authorize a Patient being sent to any Place for Health; *Added by the Lords.*

Detention of Lunatics after Expiration of or Revocation of Licence a Misdemeanor; *Added by the Lords.*

Act to be read with the Acts amended as One Act; 13.

A

BILL

[AS AMENDED BY THE LORDS]

INTITULED

An Act to amend the Lunatic Asylums Act, 1853, and the Acts passed in the Ninth and Seventeenth Years of Her Majesty, for the Regulation of the Care and Treatment of Lunatics.

[Note.—*The Words printed in Italics and Clauses* A. *to* F. *were inserted by the Lords.*]

BE it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Any single County or Borough may unite with the Subscribers to a Hospital, and any Committee of Visitors of an existing Asylum may so unite.

I. Section Three of the Lunatic Asylums Act, 1853, shall extend to empower the Justices of any One County or Borough to authorize any Committee of Justices elected for such County or Borough thereunder to treat and enter into an Agreement for uniting with the Subscribers to any such Hospital as therein mentioned, and it shall not be necessary that any other County or Borough be a Party to such Agreement; and Section Five of the said Act shall extend to empower any such Committee of Visitors as therein mentioned to enter into an Agreement for uniting with the Subscribers to any such Hospital alone.

The Proportion of Expenses between any County and Borough may be fixed with reference to Accommodation likely to be required.

II. When Two or more Committees agree to unite under the Lunatic Asylums Act, 1853, or under that Act as amended by this Act, the Proportion in which the Expenses of carrying into execution the Purposes of the said Act shall be charged upon and raised by each County and Borough so uniting may be calculated and fixed according to the Extent of the Accommodation which in the Judgment of the Committees entering into such Agreement will be required for the Pauper Lunatics of such County and Borough respectively; and the Power in Section Sixteen of the Lunatic Asylums Act, 1853, of repealing or altering the Stipulations of any Agreement for uniting, shall extend to authorize the Alteration thereof by readjusting the Proportions in which the Expenses aforesaid shall be charged on each County and Borough and the Subscribers (if any) uniting, or any of the said Parties, and, where the Committee of Visitors think fit, by fixing as aforesaid, according to the probable Extent of Accommodation required, the Proportion in which each County and Borough is to contribute to such Expenses; and where the Proportions of any Contributions are fixed according to the probable Extent of Accommodation required as aforesaid the Agreement shall specify that such Proportions are fixed according to that Basis.

Agreements for uniting to be hereafter entered into to stipulate for Contribution by Counties and Boroughs according to their relative Populations for the Time being, where not fixed according to foregoing Provision.

III. Where an Agreement for uniting is hereafter entered into under the Lunatic Asylums Act, 1853, or under that Act as amended by this Act, and the Proportion in which the Expenses of carrying the Purposes of the said Act into execution are to be charged upon each County and Borough is not fixed, under the foregoing Provision, with reference to the probable Extent of Accommodation required, the Agreement shall stipulate that such Expenses, or, where any Committee of Subscribers of a Lunatic Hospital are a Party to the Agreement, then that the aggregate Amount to be contributed by the Counties and Boroughs towards such Expenses, shall be from Time to Time charged upon and raised by the Counties and Boroughs in proportion to their respective Populations as stated in the last Return for the Time being made of the same under the Authority of Parliament, and such Agreement shall be varied from the Form in Schedule (A.) to the Lunatic Asylums Act, 1853, accordingly.

Where Expenses are to be contributed in proportion to Population, the same to be ascertained by last Census for the Time being.

IV. Where an Agreement for uniting has been already entered into under the Lunatic Asylums Act, 1853, or any former Act, the Expenses of carrying into execution any such Act, or, where any Committee of Subscribers is a Party to the Agreement, the aggregate Amount to be contributed by such Counties and Boroughs, shall be from Time to Time charged upon and raised by the Counties and Boroughs united in proportion to their respective Populations as stated

stated in the last Return for the Time being made of the same under the Authority of Parliament, save where such Expenses are adjusted and fixed under the foregoing Provision according to the probable Extent of Accommodation required.

Where there is a Dissolution of a Union a new Asylum to be provided.

V. To the Intent that due Provision may be made for the Reception and Care of the Pauper Lunatics of Counties and Boroughs Parties to Unions, upon the Dissolution of such Unions; the Justices of every County and Borough united (either alone or with any Subscribers,) shall, before any Dissolution of their Union takes effect, at a General or Quarter Sessions for such County, or at a Special Meeting of the Justices of such Borough, (as the Case may require,) elect a Committee to provide an Asylum for their County or Borough, and authorize such Committee to proceed for that Purpose in manner by the Lunatic Asylums Act, 1853, provided in the Case of a County or Borough not having an Asylum; and all the Provisions of the said Act and this Act applicable to a Committee elected to provide an Asylum in the Case of a County or Borough not having an Asylum shall be applicable to the Committee elected under this Provision.

Provisions to apply to Councils of Boroughs where they have taken upon themselves the Execution of the Lunatic Asylums Act, 1853.

VI. Where the Council of a Borough has taken upon itself, under the Lunatic Asylums Act, 1853, *or the Act of the Session holden in the Eighth and Ninth Years of Her Majesty, Chapter One hundred and twenty-six*, the Duties, Powers, and Authorities imposed or conferred upon or given to the Justices of the Borough, such Council shall be subject to and have and exercise the Duties, Powers, and Authorities by this Act imposed or conferred upon the Justices of a Borough, or any Committee elected by them; and such Council may confer upon any Committee appointed by them such of the said Duties, Powers, and Authorities as under this Act are or may be conferred upon a Committee elected by the Justices of a Borough; *and where the Council of a Borough had before the Commencement of the Lunatic Asylums Act, 1853, taken upon itself, under the said Act of the Eighth and Ninth Years of Her Majesty, Chapter One hundred and twenty-six, the Duties, Powers, and Authorities imposed or conferred upon or given to the Justices of the Borough, such Council shall, from the Commencement of the Lunatic Asylums Act, 1853, be deemed to have been subject to and to have had the Duties, Powers, and Authorities by that Act imposed or conferred upon the Justices of a Borough, or any Committee elected by them, and to have been authorized to confer upon any Committee appointed by such Council such of the said Duties, Powers, and Authorities as under such Act may be conferred upon a Committee elected by the Justices of a Borough.*

Places becoming Boroughs after the Commencement of the Lunatic Asylums Act, 1853, to be deemed Boroughs annexed to the Counties in which they are situate.

VII. Any Place which has become a Borough within the Definition contained in Section One hundred and thirty-two of the Lunatic Asylums Act, 1853, since the Commencement of that Act, shall, from and after the passing of this Act, be deemed to be a Borough annexed to the County in which the same is situate, and any Place which after the passing of this Act becomes a Borough within such Definition shall, from and after the Time of becoming such Borough, be deemed a Borough so annexed, and the Provisions contained in Section Nine in the Lunatic Asylums Act, 1853, for the Appointment of Two Justices of a Borough annexed thereunder to a County to be Members of the Committee of Visitors of the Asylum of such County, and in relation to the Contribution by such Borough to the Expenses of the Asylum of such County, shall extend to any Borough annexed under this Enactment.

Powers given by Sect. 77. of Lunatic Asylums Act, 1853, to Visitors of an Asylum to order Removal of Pauper Lunatics extended.

VIII. The Power given by Section Seventy-seven of the Lunatic Asylums Act, 1853, to any Two of the Visitors of any Asylum, being Justices, to order any Pauper Lunatic chargeable to any Parish or Union within the County or Borough, or any County or Borough to which such Asylum wholly or in part belongs, or to any such County, and who may be confined in any other Asylum, or in any registered Hospital or licensed House, to be removed to such first-mentioned Asylum, shall be extended so as to authorize such Visitors to order any Pauper Lunatic chargeable to any Parish or Union within any County or Borough, or to any County for the Reception of the Pauper Lunatics whereof into such first-mentioned Asylum there is a subsisting Contract, and who may be confined as aforesaid, to be removed to such first-mentioned Asylum, and also to order any such Pauper Lunatic as herein-before mentioned to be removed from such first-mentioned Asylum to any Asylum, registered Hospital, or licensed House, subject nevertheless to the Restriction contained in Section Seventy-eight of the Lunatic Asylums Act, 1853.

Powers of Commissioners and Visitors to continue applicable to a House which has been licensed after Expiration of Licence, while any Patients are therein.

IX. The Powers of the Commissioners and Visitors under the Lunatic Asylums Act, 1853, and the Acts of the Eighth and Ninth Years of Her Majesty, Chapter One hundred, and the Sixteenth and Seventeenth Years of Her Majesty, Chapter Ninety-six, with reference to any licensed House and the Inmates thereof, and all Powers and Provisions of the said Acts having reference to the Discharge, Removal, and Transfer of such Inmates, shall, after the Expiration or Revocation of any Licence granted in respect of such House, continue in force for all Purposes, so long as any Lunatics are detained therein, in the same Manner as if the Licence subsisted.

X. Whereas

Contracts under Forty-second Section of Lunatic Asylums Act, 1853, may be renewed.

X. Whereas Doubts have been entertained whether under the Forty-second Section of the Lunatic Asylums Act, 1853, a Contract for the Reception of Pauper Lunatics thereby authorized can be renewed: Be it declared and enacted, That upon or after the Expiration or other Determination of any Contract for any of the Purposes of the said Section it shall be lawful for every Committee of Visitors, under and subject to the several Provisions of the said Act applicable thereto, from Time to Time to enter into a new Contract for any of the Purposes mentioned in the said Section with the Committee of Visitors of any Asylum, or with the Subscribers to any Hospital registered or the Proprietor of any House licensed for the Reception of Lunatics, and for the Committee of Visitors of any Asylum, or the Subscribers to any registered Hospital or the Proprietor of any licensed House, to contract with any Committee of Visitors accordingly.

Provision for Burial of Pauper Lunatics.

XI. Where the Visitors of Lunatic Asylums for Counties and Boroughs in England, or any of their Officers duly authorized in that Behalf, shall undertake the Burial of any Pauper Lunatic, and the Burial cannot take place in the Parish where the Death shall have taken place by reason of the public Burial Ground of such Parish having been closed, and no other having been provided, or where, in consequence of the crowded State of such Burial Ground, the Visitors as aforesaid are of opinion that the Burial of such dead Body therein would be improper, it shall be lawful to bury such Body in a public Burial Ground of or in some other Parish as near as conveniently may be to the Parish wherein the Death shall have taken place, with the Consent of the Minister and Churchwardens of such Parish: Provided, that in all Cases of Burial under the Direction of the Visitors or their Officers as aforesaid the Fee or Fees payable by the Custom of the Place where the Burial may be, or under the Provisions of any Act of Parliament, shall be paid by the said Visitors for the Burial of each such Body to the Person or Persons who by such Custom or under such Act of Parliament shall be entitled to receive such Fee or Fees.

Power to enter into Agreements with Cemetery Company or Burial Board.

XII. The Visitors of Lunatic Asylums in England may from Time to Time enter into Agreements with the Proprietors of any Cemetery established under the Authority of Parliament, or with any Burial Board duly constituted under the Statutes in that Behalf, for the Burial of the dead Bodies of any Pauper Lunatics which such Visitors may undertake to bury; and thereupon the Burial of any such Body, under the Directions of the said Visitors or their Officer, in such Cemetery, or in the Burial Ground of such Burial Board, shall be lawful: Provided, however, that no such Agreement shall

be valid unless made in such Form and with such Stipulations as the Commissioners in Lunacy shall approve.

CLAUSE A. Committee of Visitors may convey Land for Burial Ground for Lunatics, &c. dying in the Asylum.

And whereas it is expedient that Burial Grounds should be provided for Persons dying in any County or Borough Lunatic Asylum built or to be built under the Authority of any Act of Parliament for the Reception of Pauper Lunatics: Be it therefore enacted, That it shall be lawful for every Committee of Visitors of any County or Borough Lunatic Asylum, or for any Trustees or Trustee in whom any Land shall be vested for the Purposes of an Asylum, with the previous Consent of One of Her Majesty's Principal Secretaries of State under his Hand, to give, grant, and convey to Her Majesty's Commissioners for building new Churches, and it shall be lawful for them to accept, any Portion not exceeding Two Statute Acres of any Land which belongs to or has been or may be purchased for any such Asylum, for the Purpose of Consecration as a Burial Ground for Pauper or other Lunatics or Officers or Servants dying in such Asylum, and that in all such Cases the Freehold of every Burial Ground, of which Her Majesty's said Commissioners shall accept a Conveyance under the Provisions of this Act for the Purpose of Consecration, shall, after the same Burial Ground shall have been consecrated, vest in the Visitors or Trustees or Trustee, as the Case may be, for the Time being of the County or Borough Lunatic Asylum to which such Burial Ground shall belong, and be for ever thereafter exclusively appropriated for the Burial of Pauper and other Lunatics dying in such Asylum, and of the Officers and Servants belonging to such Asylum and dying therein; and that from and after the Consecration of such Land the Incumbent of the Parish in which such Burial Ground is situate shall not be entitled to any Fee for the Interment therein of any Pauper or other Lunatic dying in such Asylum, or of any of the Officers and Servants belonging to such Asylum and dying therein.

Added by the Lords.

CLAUSE B. Pauper Lunatics, whose Settlements cannot be ascertained, where found in a Borough which does not contribute to the County Expenditure, to be chargeable to such Borough. See 16 & 17 Vict. c. 97. s. 98.

And whereas Doubts are entertained as to the Chargeability of Pauper Lunatics found in Boroughs whose Settlements cannot be ascertained, and it is expedient to remove such Doubts:

Section Three of the Act of the Session holden in the Twelfth and Thirteenth Years of Her Majesty, Chapter Eighty-two, shall be repealed; and where any Pauper Lunatic is not settled in the Parish by which or at the Instance of some Officer or Officiating Clergyman of which he is sent to an Asylum, registered Hospital, or licensed House, and it cannot be ascertained in what Parish such Pauper Lunatic is settled, and such Lunatic was found in a Borough having a separate Court of Quarter Sessions of the Peace, and which is not liable, under the Act of the Session holden in the Fifth and Sixth Years

Added by the Lords.

Years of King William the Fourth, Chapter Seventy-six, Section One hundred and seventeen, to the Payment of a Proportion of the Sums expended out of the County Rate, such Lunatic may be adjudged to be chargeable to such Borough by any Two Justices of such Borough; and it shall not be lawful for any Justices to adjudge such Lunatic to be chargeable to any County, nor to make any Order upon the Treasurer of any County for the Payment of any Expenses whatsoever incurred or to be incurred in respect of the said Lunatic; and all the Provisions in the Lunatic Asylums Act, 1853, as to the Mode of determining that a Pauper Lunatic is chargeable to a County, and as to the Order to be made for the Maintenance of such Pauper Lunatic, shall extend and be applied to such Borough, as fully and effectually, to all Intents and Purposes, as if all the said Provisions were repeated and re-enacted in this Act, and made applicable to such Borough, in the same Manner in all respects as though for the Purposes of this Provision such Borough were a separate and distinct County.

CLAUSE C. Seals of Commissioners, Visitors, and Justices, to Orders, &c., dispensed with.

In all Cases in which, under the Lunatic Asylums Act, 1853, or the Act of the Session holden in the Eighth and Ninth Years of Her Majesty, Chapter One hundred, or the Act of the Session holden in the Sixteenth and Seventeenth Years of Her Majesty, Chapter Ninety-six, any Order or other Instrument is required to be under the Hand and Seal or Hands and Seals of any Visitor or Visitors, Justice or Justices, it shall be sufficient for such Order or Instrument to be signed only; and all such Orders and Instruments as aforesaid which have been signed before the passing of this Act, and have not had a Seal or Seals affixed to them, as by Law required, shall be and be deemed to have been valid and sufficient to justify any Proceeding thereon or thereunder.

CLAUSE D. So much of Sect. 6. of 16 & 17 Vict. c. 96. as requires personal Examination of Patients, repealed.

So much of Section Six of the said Act of the Sixteenth and Seventeenth Years of Her Majesty, Chapter Ninety-six, as requires "such Assent" as therein mentioned of Two of the Commissioners "not to be given until after such Commissioners have by personal "Examination of the Patient satisfied themselves of his Desire to "remain," shall be repealed.

CLAUSE E. Consent of Members of Committee of Management of any Hospital sufficient to authorize a Patient being sent to any Place for Health.

The Superintendent of any registered Hospital may, with the Consent in Writing of Two Members of the Committee having the Management or Government of such Hospital, send or take, under proper Control, any Patient to any specified Place for any definite Time, for the Benefit of his Health; and any such Consent, and any Consent under Section Eighty-six of the said Act of the Eighth and Ninth Years of Her Majesty, Chapter One hundred, may be from Time to Time renewed and the Place varied.

CLAUSE F. Detention of Lunatics after Expiration of or Revocation of Licence a Misdemeanor.

If after the Lapse of Two Months from the Expiration of any Licence for the Use of any House for the Reception of Lunatics which has not been renewed, or if after the Revocation of any such Licence there be in any such House Two or more Lunatics, every Person keeping such House, or having the Care and Charge of such Lunatics, shall be guilty of a Misdemeanor. *Added by the Lords.*

Act to be read with the Acts amended as One Act.

XIII. This Act, so far as the same amends or affects the said Acts of the Eighth and Ninth Years of Her Majesty, Chapter One hundred, and of the Sixteenth and Seventeenth Years of Her Majesty, Chapter Ninety-six, or either of them, shall be read and construed together with the said Acts as One Act, and the Provision contained in Section One hundred and six of the said Act of the Eighth and Ninth Years of Her Majesty shall extend to Offences against this Act; and this Act, so far as the same amends or affects the Lunatic Asylums Act, 1853, shall be read and construed therewith as One Act.

Lunatic Asylums and Regulations Acts Amendment.

A

B I L L

[AS AMENDED BY THE LORDS]

INTITULED

An Act to amend the Lunatic Asylums Act, 1853, and the Acts passed in the Ninth and Seventeenth Years of Her Majesty, for the Regulation of the Care and Treatment of Lunatics.

Ordered, by The House of Commons, *to be Printed, 7 August* 1855.

[Bill 294.]

Under 2 oz.

A

BILL

TO

Continue an Act of the Fifth and Sixth Years of Her present Majesty for amending the Law relative to Private Lunatic Asylums in Ireland.

WHEREAS an Act was passed in the Session of Parliament holden in the Fifth and Sixth Years of the Reign of Her present Majesty, intituled "An Act for amending until the "First Day of August One thousand eight hundred and forty-five, "and until the End of the then next Session of Parliament, the Law "relating to Private Lunatic Asylums in Ireland:" And whereas by the Fifty-first Section of the said Act it was provided, that the said Act should be and remain in force until the First Day of August One thousand eight hundred and forty-five, and until the End of the then next Session of Parliament, and no longer: And whereas by an Act of the Ninth and Tenth Years of Her Majesty's Reign, Chapter Seventy-nine, and an Act of the Fourteenth and Fifteenth Years of Her Majesty's Reign, Chapter Forty-six, the said first-recited Act was further continued till the Thirty-first Day of July One thousand eight hundred and fifty-five, and until the End of the then next Session of Parliament: And whereas it is expedient that the said first-recited Act should be further continued: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and

Preamble.

5 & 6 Vict. c. 123.

9 & 10 Vict. c. 79.

14 & 15 Vict. c. 46.

Consent

Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said first-recited Act shall be and remain in force until the *First Day of August One thousand eight hundred and sixty*, and until the End of the then next Session of Parliament.

Recited Act continued.

Lunatic Asylums (Ireland).

A

BILL

To continue an Act of the Fifth and Sixth Years of Her present Majesty for amending the Law relative to Private Lunatic Asylums in Ireland.

(*Prepared and brought in by Mr. Horsman and Mr. Attorney General for Ireland.*)

Ordered, by The House of Commons, *to be Printed*, 5 *July* 1855.

[Bill 226.]

Under 1 *oz.*

23 *February* 1855. 18 Vict.

(Ireland.)

A

BILL

TO

Make further Provisions for the Repayment of Advances out of the Consolidated Fund for the Erection and Enlargement of Asylums for the Lunatic Poor in Ireland, and to amend the Laws with reference to the Repayments in case of Change of Districts, and the Appointment of Commissioners of General Control and Correspondence.

[Note.—The Words printed in *Italics* are proposed to be inserted in Committee.]

WHEREAS, under the Provisions of the several Statutes in that Case made and provided, certain Asylums for the Lunatic Poor in Ireland were from Time to Time ordered by the Lord Lieutenant and Privy Council of Ireland to be erected, enlarged, or extended: And whereas certain Sums of Money have been advanced from Time to Time by the Commissioners of Her Majesty's Treasury, out of the growing Produce of the Consolidated Fund of the United Kingdom arising in Ireland, for the Purpose of defraying the Expenses of such Erection, Enlargement, and Extension of the said Asylums, such Advances having been made in certain Cases under and by virtue of an Order or Orders of the Lord Lieutenant

Preamble. 1 & 2 G. 4. c. 33., 7 G. 4. c. 14., 8 & 9 Vict. c. 107.

Lieutenant and Privy Council of Ireland, and in certain other Cases without such Order or Orders: And whereas Provision is made by the Statutes aforesaid that it shall and may be lawful for the Lord Lieutenant and Privy Council to make Orders for the Repayment by the Counties forming the District of any such Asylums of the Monies so ordered by the Lord Lieutenant and Privy Council to be advanced: And whereas it is doubtful whether it is competent for the Lord Lieutenant and Privy Council to make Orders for the Repayment of those Sums for the Advance of which no Orders in Council were made: And whereas it is expedient to make better Provision for the Repayment of the whole of such Sum or Sums so advanced as aforesaid: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

On Completion of Asylum, Commissioners for General Control and Correspondence, &c. of Asylums to certify to the Lord Lieutenant and Council the whole of the Sums expended.

I. From and after *the passing of this Act*, in every Case where any of the Asylums so ordered to be erected, enlarged, or extended as aforesaid shall have been already certified or shall be hereafter certified to be fit for the Reception of the Lunatic Poor, it shall be lawful for the Commissioners for General Control and Correspondence, and for superintending and directing the Erection and Establishment of Asylums for the Lunatic Poor in Ireland, and they are hereby required, to transmit to the Clerk of Her Majesty's Privy Council in Ireland a certified Return of all the Moneys which shall have been expended from Time to Time in such Erection, Enlargement, or Extension of such Asylum as aforesaid; and the said Clerk of the Council shall lay the said Return before the Lord Lieutenant in Council as soon as conveniently may be.

Lord Lieutenant in Council to make Order for the Repayment of all the Sums certified to have been expended. See Interpretation Clause.

II. It shall and may be lawful for the Lord Lieutenant and Council, on such certified Return being laid before them, to make an Order or Orders for the Repayment by the Counties within the District in and for which such Asylum shall be erected and established of the Sums so certified to have been expended, in such Manner, and at such Times, and in such Proportions as shall be fixed by said Order.

Grand Jury of the County to make Presentment for the Repayment of the Money so ordered to be repaid.

III. It shall be lawful for the Grand Jury of any and every County in Ireland in or for which, either wholly or in part, any such Asylum hath been or shall be erected and established, and such Grand Jury is hereby required, without any previous Proceedings, at any Presentment Sessions, to present the Sum or Sums to be fixed and ascertained by any such Order or Orders accordingly, or in default thereof the same shall be inserted in and raised by an Order of the Judge of Assize, or of the Court at any Presenting Term, which Order shall have

have the Force of a Presentment, and the Sum or Sums therein mentioned shall be applotted and raised and levied accordingly, as if the same had been inserted in a Presentment duly made at the Assizes or Presenting Term at which such Order shall be made, any Act or Acts to the contrary notwithstanding.

IV. And whereas it is expedient to amend so much of an Act passed in the Ninth and Tenth Years of the Reign of Her present Majesty, intituled "An Act to amend the Laws as to "District Lunatic Asylums in Ireland, to provide for the Expense "of the Maintenance of certain Lunatic Poor removed from the "Richmond Lunatic Asylum, Dublin, for Want of Room therein, "and to provide for the Salaries and Expenses incident to the "Office of Inspector of Lunatics in Ireland," as relates to the Repayments which, in case of Change of old Districts and Establishment of new Districts, any County or Counties remaining within the old Districts are liable to make to any County or Counties transferred to such new Districts of the whole of the Sums raised off such County or Counties so transferred as aforesaid for erecting and establishing any Lunatic Asylum in whose District such County shall have been theretofore situate: Be it enacted, That from and after *the passing of this Act* so much of the said recited Act as provides that the whole of such Sums so raised off any County or Counties shall be repaid to such County or Counties so transferred to a new District as aforesaid shall be and the same is hereby repealed; and it shall and may be lawful for the Lord Lieutenant and Privy Council, if they shall so think fit, to ascertain and fix the equitable Amount so to be repaid, and the Proportions and Instalments of such Repayments, which shall, when fixed as aforesaid, be presented, levied, and repaid in the like Manner as in the said recited Act is enacted and provided.

9 & 10 Vict. c. 115. s. 2.

Manner of proceeding in case of Change of District.

V. And whereas by an Act passed in the First and Second Years of the Reign of His late Majesty King George the Fourth, intituled "An Act to make more effectual Provision for the Establishment of "Asylums for the Lunatic Poor, and for the Custody of Insane "Persons charged with Offences in Ireland," it is amongst other things provided and enacted, that it shall and may be lawful for the Lord Lieutenant or other Chief Governor or Governors of Ireland, by and with the Advice of His Majesty's Privy Council in Ireland, to nominate and appoint any Persons, not exceeding Eight in Number, to be Commissioners for General Control and Correspondence, and for the superintending and directing the Erection, Establishment, and Regulation of all Asylums for the Lunatic Poor in Ireland: And whereas it is expedient to amend the above Provision:

1 & 2 G. 4. c. 33. s. 5.

Lord Lieutenant may revoke Appointments of Commissioners of General Control, &c., and nominate other Persons to be Commissioners.

Be it enacted, That from and after the *passing of this Act* it shall and may be lawful for the Lord Lieutenant in Council to revoke any such Appointment as the said Lord Lieutenant in Council may think fit, and to appoint, from Time to Time, as Vacancies may occur, any other Person or Persons to be Commissioners as aforesaid: Provided always, that every Person so appointed shall be a Commissioner of Public Works in Ireland, and shall continue to act only so long as he shall continue in the said Office, and shall act without any additional Salary, Fee, Reward, or Emolument whatsoever; and all Property which may or shall have been heretofore vested in the said Commissioners for General Control and Correspondence shall be and shall hereafter be to all Intents and Purposes vested in the Commissioners for Public Works in Ireland.

Interpretation Clause.

VI. In the Construction of this Act the Expression "Lord Lieutenant" shall mean the Lord Lieutenant or other Chief Governor or Governors of Ireland; the Expression "Lord Lieutenant in Council" shall mean the Lord Lieutenant or other Chief Governor or Governors of Ireland, by and with the Advice of Her Majesty's Privy Council in Ireland; and the Word "County" shall include a County of a City or County of a Town.

Short Title.

VII. This Act may be cited for all Purposes as the "Lunatic Asylums Repayment of Advances (Ireland) Act, 1855."

Lunatic Asylums (Ireland) (Advances).

A

BILL

To make further Provisions for the Repayment of Advances out of the Consolidated Fund for the Erection and Enlargement of Asylums for the Lunatic Poor in Ireland, and to amend the Laws with reference to the Repayments in case of Change of Districts, and the Appointment of Commissioners of General Control and Correspondence.

(*Prepared and brought in by Mr. Wilson and Sir John Young.*)

Ordered, by The House of Commons, *to be Printed,* 23 *February* 1855.

[Bill 44.]

Under 1 *oz.*

10 *May* 1855. 18 Vict.

(Ireland.)

A

BILL

[AS AMENDED BY THE SELECT COMMITTEE]

TO

Make further Provisions for the Repayment of Advances out of the Consolidated Fund for the Erection and Enlargement of Asylums for the Lunatic Poor in Ireland, and to amend the Laws with reference to the Repayments in case of Change of Districts, and the Appointment of Commissioners of General Control and Correspondence.

Preamble. 1 & 2 G. 4. c. 33., 7 G. 4. c. 14., 8 & 9 Vict. c. 107.

WHEREAS, under the Provisions of the several Statutes in that Case made and provided, certain Asylums for the Lunatic Poor in Ireland were from Time to Time ordered by the Lord Lieutenant and Privy Council of Ireland to be erected, enlarged, or extended: And whereas certain Sums of Money have been advanced from Time to Time by the Commissioners of Her Majesty's Treasury, out of the growing Produce of the Consolidated Fund of the United Kingdom arising in Ireland, for the Purpose of defraying the Expenses of such Erection, Enlargement, and Extension of the said Asylums, such Advances having been made in certain Cases under and by virtue of an Order or Orders of the Lord

 Lieutenant

Lieutenant and Privy Council of Ireland, and in certain other Cases without such Order or Orders: And whereas Provision is made by the Statutes aforesaid that it shall and may be lawful for the Lord Lieutenant and Privy Council to make Orders for the Repayment by the Counties forming the District of any such Asylums of the Monies so ordered by the Lord Lieutenant and Privy Council to be advanced: And whereas it is doubtful whether it is competent for the Lord Lieutenant and Privy Council to make Orders for the Repayment of those Sums for the Advance of which no Orders in Council were made: And whereas it is expedient to make better Provision for the Repayment of the whole of such Sum or Sums so advanced as aforesaid: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

On Completion of Asylum, Commissioners for General Control and Correspondence, &c. of Asylums to certify to the Lord Lieutenant and Council the whole of the Sums expended.

I. From and after the passing of this Act, in every Case where any of the Asylums so ordered to be erected, enlarged, or extended as aforesaid shall have been already handed over or shall be hereafter handed over to the Governors of such Asylum fit for the Reception of the Lunatic Poor, as provided by the Act First and Second George the Fourth, Chapter Thirty-three, it shall be lawful for the Commissioners for General Control and Correspondence, and for superintending and directing the Erection and Establishment of Asylums for the Lunatic Poor in Ireland, and they are hereby required, to transmit to the Clerk of Her Majesty's Privy Council in Ireland a certified Return of all the Moneys which shall have been expended from Time to Time in such Erection, Enlargement, or Extension of such Asylum as aforesaid, and the said Clerk of the Council shall lay the said Return before the Lord Lieutenant in Council as soon as conveniently may be; provided that in case any Difference of Opinion shall arise as to the Fitness of any Asylum for the Reception of the Lunatic Poor between the Governors and the Board of Works, it shall be lawful for the Governors to refer the Question to the Lord Lieutenant in Council, who is hereby empowered to decide between them.

Lord Lieutenant in Council to make Order for the Repayment of all the Sums certified to have been expended. See Interpretation Clause.

II. It shall and may be lawful for the Lord Lieutenant and Council, on such certified Return being laid before them, to make an Order or Orders for the Repayment by the Counties within the District in and for which such Asylum shall be erected and established of the Sums so certified to have been expended, in such Manner, and at such Times, and in such Proportions as shall be fixed by said Order.

III. It

Grand Jury of the County to make Presentment for the Repayment of the Money so ordered to be repaid.

III. It shall be lawful for the Grand Jury of any and every County in Ireland in or for which, either wholly or in part, any such Asylum hath been or shall be erected and established, and such Grand Jury is hereby required, without any previous Proceedings, at any Presentment Sessions, to present the Sum or Sums to be fixed and ascertained by any such Order or Orders accordingly, or in default thereof the same shall be inserted in and raised by an Order of the Judge of Assize, or of the Court at any Presenting Term, which Order shall have the Force of a Presentment, and the Sum or Sums therein mentioned shall be applotted and raised and levied accordingly, as if the same had been inserted in a Presentment duly made at the Assizes or Presenting Term at which such Order shall be made, any Act or Acts to the contrary notwithstanding.

9 & 10 Vict. c. 115. s. 2.

IV. And whereas it is expedient to amend so much of an Act passed in the Ninth and Tenth Years of the Reign of Her present Majesty, intituled "An Act to amend the Laws as to "District Lunatic Asylums in Ireland, to provide for the Expense "of the Maintenance of certain Lunatic Poor removed from the "Richmond Lunatic Asylum, Dublin, for Want of Room therein, "and to provide for the Salaries and Expenses incident to the "Office of Inspector of Lunatics in Ireland," as relates to the Repayments which, in case of Change of old Districts and Establishment of new Districts, any County or Counties remaining within the old Districts are liable to make to any County or Counties transferred to such new Districts of the whole of the Sums raised off such County or Counties so transferred as aforesaid for erecting and establishing any Lunatic Asylum in whose District such County shall have been theretofore situate: Be it enacted, That from and after the passing of this Act so much of the said recited Act as provides that the whole of such Sums so raised off any County or Counties shall be repaid to such County or Counties so transferred to a new District as aforesaid shall be and the same is hereby repealed; and it shall and may be lawful for the Lord Lieutenant and Privy Council, if they shall so think fit, to ascertain and fix the equitable Amount so to be repaid, and the Proportions and Instalments of such Repayments, which shall, when fixed as aforesaid, be presented, levied, and repaid in the like Manner as in the said recited Act is enacted and provided.

Manner of proceeding in case of Change of District.

Interpretation Clause.

V. In the Construction of this Act the Expression "Lord Lieutenant" shall mean the Lord Lieutenant or other Chief Governor or Governors of Ireland; the Expression "Lord Lieutenant in Council" shall mean the Lord Lieutenant or other Chief Governor or Governors of Ireland, by and with the Advice of Her Majesty's

Privy Council in Ireland; and the Word "County" shall include a County of a City or County of a Town.

Short Title.

VI. This Act may be cited for all Purposes as the "Lunatic Aslyums Repayment of Advances (Ireland) Act, 1855."

Lunatic Asylums (Ireland) (Advances).

A

B I L L

[AS AMENDED BY THE SELECT COMMITTEE]

To make further Provisions for the Repayment of Advances out of the Consolidated Fund for the Erection and Enlargement of Asylums for the Lunatic Poor in Ireland, and to amend the Laws with reference to the Repayments in case of Change of Districts, and the Appointment of Commissioners of General Control and Correspondence.

(Prepared and brought in by Mr. Wilson and Sir John Young.)

Ordered, by The House of Commons, *to be Printed,* 10 *May* 1855.

[Bill 114.] *Under* 1 *oz.*

(Ireland.)

A

BILL

[AS AMENDED BY THE SELECT COMMITTEE AND ON RECOMMITMENT]

TO

Make further Provisions for the Repayment of Advances out of the Consolidated Fund for the Erection and Enlargement of Asylums for the Lunatic Poor in Ireland, and to amend the Laws with reference to the Repayments in case of Change of Districts, and the Appointment of Commissioners of General Control and Correspondence.

[Note.—*The Clauses* A. *and* B. *were added on Recommitment.*]

WHEREAS, under the Provisions of the several Statutes in that Case made and provided, certain Asylums for the Lunatic Poor in Ireland were from Time to Time ordered by the Lord Lieutenant and Privy Council of Ireland to be erected, enlarged, or extended: And whereas certain Sums of Money have been advanced from Time to Time by the Commissioners of Her Majesty's Treasury, out of the growing Produce of the Consolidated Fund of the United Kingdom arising in Ireland, for the Purpose of defraying the Expenses of such Erection, Enlargement, and Extension of the said Asylums, such Advances having been made in certain Cases under and by virtue of an Order or Orders of the Lord Lieutenant

Preamble. 1 & 2 G. 4. c. 33., 7 G. 4. c. 14., 8 & 9 Vict. c. 107.

Lieutenant and Privy Council of Ireland, and in certain other Cases without such Order or Orders: And whereas Provision is made by the Statutes aforesaid that it shall and may be lawful for the Lord Lieutenant and Privy Council to make Orders for the Repayment by the Counties forming the District of any such Asylums of the Monies so ordered by the Lord Lieutenant and Privy Council to be advanced: And whereas it is doubtful whether it is competent for the Lord Lieutenant and Privy Council to make Orders for the Repayment of those Sums for the Advance of which no Orders in Council were made: And whereas it is expedient to make better Provision for the Repayment of the whole of such Sum or Sums so advanced as aforesaid: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

On Completion of Asylum, Commissioners for General Control and Correspondence, &c. of Asylums to certify to the Lord Lieutenant and Council the whole of the Sums expended.

I. From and after the passing of this Act, in every Case where any of the Asylums so ordered to be erected, enlarged, or extended as aforesaid shall have been already handed over or shall be hereafter handed over to the Governors of such Asylum fit for the Reception of the Lunatic Poor, as provided by the Act First and Second George the Fourth, Chapter Thirty-three, it shall be lawful for the Commissioners for General Control and Correspondence, and for superintending and directing the Erection and Establishment of Asylums for the Lunatic Poor in Ireland, and they are hereby required, to transmit to the Clerk of Her Majesty's Privy Council in Ireland a certified Return of all the Moneys which shall have been expended from Time to Time in such Erection, Enlargement, or Extension of such Asylum as aforesaid, and the said Clerk of the Council shall lay the said Return before the Lord Lieutenant in Council as soon as conveniently may be; provided that in case any Difference of Opinion shall arise as to the Fitness of any Asylum for the Reception of the Lunatic Poor between the Governors and the Board of Works, it shall be lawful for the Governors to refer the Question to the Lord Lieutenant in Council, who is hereby empowered to decide between them.

Lord Lieutenant in Council to make Order for the Repayment of all the Sums certified to have been expended. See Interpretation Clause.

II. It shall and may be lawful for the Lord Lieutenant and Council, on such certified Return being laid before them, to make an Order or Orders for the Repayment by the Counties within the District in and for which such Asylum shall be erected and established of the Sums so certified to have been expended, in such Manner, and at such Times, and in such Proportions as shall be fixed by said Order.

III. It

III. It shall be lawful for the Grand Jury of any and every County in Ireland in or for which, either wholly or in part, any such Asylum hath been or shall be erected and established, and such Grand Jury is hereby required, without any previous Proceedings, at any Presentment Sessions, to present the Sum or Sums to be fixed and ascertained by any such Order or Orders accordingly, or in default thereof the same shall be inserted in and raised by an Order of the Judge of Assize, or of the Court at any Presenting Term, which Order shall have the Force of a Presentment, and the Sum or Sums therein mentioned shall be applotted and raised and levied accordingly, as if the same had been inserted in a Presentment duly made at the Assizes or Presenting Term at which such Order shall be made, any Act or Acts to the contrary notwithstanding.

Grand Jury of the County to make Presentment for the Repayment of the Money so ordered to be repaid.

IV. And whereas it is expedient to amend so much of an Act passed in the Ninth and Tenth Years of the Reign of Her present Majesty, intituled "An Act to amend the Laws as to "District Lunatic Asylums in Ireland, to provide for the Expense "of the Maintenance of certain Lunatic Poor removed from the "Richmond Lunatic Asylum, Dublin, for Want of Room therein, "and to provide for the Salaries and Expenses incident to the "Office of Inspector of Lunatics in Ireland," as relates to the Repayments which, in case of Change of old Districts and Establishment of new Districts, any County or Counties remaining within the old Districts are liable to make to any County or Counties transferred to such new Districts of the whole of the Sums raised off such County or Counties so transferred as aforesaid for erecting and establishing any Lunatic Asylum in whose District such County shall have been theretofore situate: Be it enacted, That from and after the passing of this Act so much of the said recited Act as provides that the whole of such Sums so raised off any County or Counties shall be repaid to such County or Counties so transferred to a new District as aforesaid shall be and the same is hereby repealed; and it shall and may be lawful for the Lord Lieutenant and Privy Council, if they shall so think fit, to ascertain and fix the equitable Amount so to be repaid, and the Proportions and Instalments of such Repayments: Provided always, that before finally fixing and ascertaining the equitable Amount so to be repaid, the Chief or Under Secretary of the Lord Lieutenant shall transmit a Copy of the proposed Order for fixing and ascertaining such Amount, and the Proportions and Instalments of such Repayments, to the Secretary of the Grand Jury of every County affected by or interested in such Order, and such Secretary shall lay the same before the Grand Jury of such County on the First Day of their Meeting for fiscal Business; and in case any such Grand Jury shall think proper to object

9 & 10 Vict. c. 115. s. 2.

Manner of proceeding in case of Change of District.

object to such proposed Order, or any Part thereof, such Grand Jury shall at such Assizes be authorized to do so, and transmit the Particulars of their Objections to the said Chief or Under Secretary of the Lord Lieutenant, and the Lord Lieutenant and Privy Council shall at any Time after such Assizes (upon Notice to the Secretary of the Grand Jury of every or any County so objecting) proceed to consider the Objections which shall have been so made by or on the Part of any such Grand Jury, or, in the Absence of any such Objections, make an Order finally fixing and ascertaining the equitable Amount so to be repaid, and the Proportions and Instalments of such Repayments, which shall, when fixed as aforesaid, be presented, levied, and repaid in the like Manner as in the said recited Act is enacted and provided.

CLAUSE A. 1 & 2 Geo. 4. c. 33. s. 5.

V. And whereas by an Act passed in the First and Second Years of the Reign of His late Majesty King George the Fourth, intituled "An Act to make more effectual Provision for the Establishment of Asylums for the Lunatic Poor, and for the Custody of "Insane Persons charged with Offences in Ireland," it is, amongst other things, provided and enacted, that it shall and may be lawful for the Lord Lieutenant, or other Chief Governor or Governors of Ireland, by and with the Advice of His Majesty's Privy Council in Ireland, to nominate and appoint any Persons, not exceeding Eight in Number, to be Commissioners for general Control and Correspondence and for the superintending and directing the Erection, Establishment, and Regulation of all Asylums for the Lunatic Poor in Ireland: And whereas Richard Griffith and John Radcliff, Esquires, Two of the Commissioners of Public Works in Ireland, have hitherto acted as Two of the said last-mentioned Commissioners, and it is expedient that they should continue to act as such: Be it enacted, That the said Richard Griffith and John Radcliff shall be and they are hereby continued and appointed Two of the said Commissioners for general Control and Correspondence, and for the superintending and directing the Erection, Establishment, and Regulation of Asylums for the Lunatic Poor; and from and after the passing of this Act it shall and may be lawful for the Lord Lieutenant in Council to revoke any Appointment heretofore made or purporting to have been made under the said recited Act, as the Lord Lieutenant in Council may think fit, and to appoint from Time to Time as Vacancies may occur any other Persons (not being Commissioners of Public Works) to be Commissioners for general Control and Correspondence, and for the superintending and directing the Erection, Establishment, and Regulation of Asylums for the Lunatic Poor in Ireland; and all Lands and Hereditaments and Property of what Nature or Kind whatsoever, which may have been acquired by or vested in the said Commissioners for

Appointment of Commissioners.

for general Control and Correspondence, and for the superintending and directing the Erection, Establishment, and Regulation of Asylums for the Lunatic Poor, or any of them, appointed or purporting to have been appointed under the said recited Act of the First and Second Years of His late Majesty King George the Fourth, shall be and are hereby to all Intents and Purposes vested in the Commissioners for the Time being appointed and to be appointed under this Act.

CLAUSE B. Treasury to have Power to relieve Counties of a Portion of the Expenses if it should appear just.

VI. It shall be lawful for the Commissioners of the Treasury, if upon any Inquiries made under their Directions it shall appear to them just that the County or Counties liable to be charged in respect of any such Asylum should be relieved from a Portion of the Amount of the Expenses incurred in the building of such Asylum, to authorize and direct that Remission shall be made accordingly to such Amount as to the said Commissioners of the Treasury may appear just and reasonable.

Interpretation Clause.

VII. In the Construction of this Act the Expression "Lord Lieutenant" shall mean the Lord Lieutenant or other Chief Governor or Governors of Ireland; the Expression "Lord Lieutenant in Council" shall mean the Lord Lieutenant or other Chief Governor or Governors of Ireland, by and with the Advice of Her Majesty's Privy Council in Ireland; and the Word "County" shall include a County of a City or County of a Town.

Short Title.

VIII. This Act may be cited for all Purposes as the "Lunatic Aslyums Repayment of Advances (Ireland) Act, 1855."

Lunatic Asylums (Ireland) (Advances).

A

BILL

[AS AMENDED BY THE SELECT COMMITTEE AND ON RECOMMITMENT]

To make further Provisions for the Repayment of Advances out of the Consolidated Fund for the Erection and Enlargement of Asylums for the Lunatic Poor in Ireland, and to amend the Laws with reference to the Repayments in case of Change of Districts, and the Appointment of Commissioners of General Control and Correspondence.

(*Prepared and brought in by Mr. Wilson and Sir John Young.*)

Ordered, by The House of Commons, *to be Printed*, 16 *July* 1855.

[Bill 249.]

Under 1 *oz.*